Applicant Details

First Name	**John Robert**
Middle Initial	**B.**
Last Name	**DeLaney**
Citizenship Status	**U. S. Citizen**
Email Address	**jdelan22@illinois.edu**
Address	**Address** Street **204 W Washington St Apt 18** City **Urbana** State/Territory **Illinois** Zip **61801** Country **United States**
Contact Phone Number	**615-319-9700**

Applicant Education

BA/BS From	**Northwestern University**
Date of BA/BS	**June 2007**
JD/LLB From	**University of Illinois, College of Law** **http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp**
Date of JD/LLB	**May 13, 2023**
Class Rank	**5%**
Law Review/Journal	**Yes**
Journal(s)	**University of Illinois Law Review**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Frederick Green Moot Court Honorary Round Competition**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Johnson, Eric
ejohnsn@illinois.edu
(217) 333-9115
Mazzone, Jason
mazzonej@illinois.edu
Ross, Richard
Rjross@illinois.edu
12173442856

References

References

1. Professor Ralph Brubaker, phone: (217) 265-6740, email: rbrubake@illinois.edu. Professor Brubaker was my first-year Contracts instructor and second-year Conflict of Laws instructor at University of Illinois College of Law.

2. Andrew J. Weissler, phone: (314) 480-1926; email: aj.weissler@huschblackwell.com. Mr. Weissler is a partner with the law firm of Husch Blackwell. During the Fall 2021 academic semester, he was an Adjunct Professor at University of Illinois College of Law and my second-year Advanced Appellate Advocacy instructor.

3. Professor Barbara J. Kaplan, phone: (217) 244-2792, email: bjkaplan@illinois.edu. Professor Kaplan was my first-year Legal Research instructor at University of Illinois College of Law. I received a CALI award for earning the highest grade in Professor Kaplan's Legal Research course.

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Rob DeLaney

204 W Washington St, Apt 18 | Urbana, IL 61801 | jdelan22@illinois.edu | (615) 319-9700

The Honorable Michael B. Brennan
United States Court of Appeals for the Seventh Circuit
United States Courthouse and Federal Building
517 E. Wisconsin Avenue
Milwaukee, WI 53202

Dear Judge Brennan:

I am writing to apply for a clerkship in your chambers for the 2024-2025 term. I am currently a third-year student at the University of Illinois College of Law.

As a law student, I have sought to develop strong writing, advocacy, and leadership skills, which I am confident would benefit the work of your chambers.

After my first year in law school, I externed with Judge John Robert Blakey in the United States District Court for the Northern District of Illinois. Observing court proceedings and helping to draft opinion orders provided valuable insight into the operation of the federal courts and the role of a judicial clerk.

In my second year, I participated in the Illinois College of Law's Honorary Frederick Green Moot Court Competition. I argued in front of a panel of guest judges from the Michigan Supreme Court, the Northern District of Illinois, and the United States Court of Appeals for the Second Circuit. I truly enjoyed the exercise of developing and articulating legal arguments for my colleagues and the court.

As a third-year law student, I served as the Executive Editor of the *University of Illinois Law Review*. The position helped me cultivate strong editing and organizational skills and provided me the opportunity to serve in a leadership role for my law school classmates.

In addition, I have remained active in Moot Court. In November 2022, I was part of the championship team and named Best Oral Advocate at the Region VIII Regional Round of the New York City Bar National Moot Court Competition. In March 2023, I was part of the second-place team and shared an award for Best Appellee Brief at the Anderson Center Seventh Circuit Moot Court Competition.

I have included for your review my resume, transcripts, and writing samples. I have also included letters of recommendation from Professor Eric Johnson, Professor Jason Mazzone, and Professor Richard Ross.

If you have any questions or would like additional information, please feel free to contact me at jdelan22@illinois.edu or (615) 319-9700. Thank you very much for your time and consideration.

Sincerely,

Rob DeLaney
Juris Doctor Candidate, 2023
University of Illinois College of Law

Rob DeLaney

204 W Washington St, Apt 18 Urbana, IL 61801 jdelan22@illinois.edu (615) 319-9700

EDUCATION

University of Illinois College of Law **Champaign, IL**
Juris Doctor Candidate Anticipated May 2023
GPA: 3.90/4.0, Class Rank: 6/153

- Harno Scholar (Top 10%): Fall 2020, Spring 2021, Fall 2021, Spring 2022, Fall 2022
- CALI Awards for highest grades in Criminal Law, Property Law, Legal Research
- *University of Illinois Law Review*, Member, 2021-2022, Executive Editor, 2022-2023
- Anderson Center Seventh Circuit Moot Court Competition, March 2023: Second Place Team, Best Appellee Brief, Second Best Oral Advocate (tied)
- NYCB National Moot Court Competition, February 2023: Competitor; NYCB National Moot Court Competition Region VIII Regional Round, November 2022: Championship Team, Best Oral Advocate
- University of Illinois Frederick Green Moot Court Honorary Round, April 2022: Competitor

Northwestern University **Evanston, IL**
Bachelor of Arts, Political Science June 2007
GPA: 3.726/4.0

EXPERIENCE

Jones Day **Chicago, IL**
Associate Anticipated October 2023
Summer Associate May 2022-July 2022

- Conducted legal research for the firm's Business & Tort Litigation and other practice areas.

United States District Court for the Northern District of Illinois **Chicago, IL**
Judicial Extern for the Honorable John Robert Blakey June 2021-August 2021

- Researched and completed first-draft opinion orders for pretrial motions, including a motion for summary judgment, motion to dismiss, and motion to consolidate.

Greenheart Exchange (formerly the Center for Cultural Interchange or CCI) **Chicago, IL**
Senior Employer Services Coordinator November 2018-March 2020
Employer Services Coordinator November 2015-October 2018

- Consulted annually with U.S. employers to facilitate summer hiring for international students.
- Maintained employer agreements to ensure compliance with Summer Work Travel program regulations.

Tostan **Thiès, Senegal**
Tostan Volunteer February 2014-September 2015

- Coordinated with regional offices to verify data for Tostan's human rights-based community programs.
- Collaborated on quarterly reports in French for international donors, including UNICEF and UNFPA.

Peace Corps **Madaba, Jordan**
Peace Corps Volunteer/English Teacher October 2011-December 2013

Greenheart Exchange (formerly the Center for Cultural Interchange or CCI) **Chicago, IL**
Administrative Assistant February 2010-September 2011

Fulbright Program **Dakar, Senegal**
Fulbright Research Grantee October 2008-July 2009

Public Defender Service for the District of Columbia **Washington, D.C.**
Investigative Intern January 2008-August 2008

LANGUAGES AND PROFESSIONAL MEMBERSHIPS

- French (advanced); Arabic (beginner); Wolof (beginner)
- Chicago Bar Association, Student Member

UNIVERSITY OF ILLINOIS URBANA - CHAMPAIGN

Urbana, Illinois 61801

Student Name: DeLaney, John Robert Butler

University ID: 660000790 **Issue Date:** 17 - Mar - 23

Level: Law - Urbana-Champaign **Day - Month of Birth:** 25 - Mar

Most Recent Program(s)
College : Law
Major : Law

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
INSTITUTION CREDIT:						
Fall 2020 - Urbana-Champaign						
Law						
Law						
LAW	602	Property	4.00	A+	16.00	
LAW	603	Torts	4.00	A	16.00	
LAW	607	Civil Procedure	4.00	A	16.00	
LAW	609	Legal Writing & Analysis	2.00	A-	7.34	
LAW	627	Legal Research	1.00	A+	4.00	
Ehrs: 15.00 GPA-Hrs: 15.00 QPts: 59.34 GPA: 3.95						
Spring 2021 - Urbana-Champaign						
Law						
Law						
LAW	601	Contracts	4.00	A-	14.68	
LAW	604	Criminal Law	4.00	A+	16.00	
LAW	606	Constitutional Law I	4.00	A-	14.68	
LAW	610	Introduction to Advocacy	3.00	A-	11.01	
LAW	792	Fund of Legal Practice	1.00	S	0.00	
Ehrs: 16.00 GPA-Hrs: 15.00 QPts: 56.37 GPA: 3.75						
Summer 2021 - Urbana-Champaign						
Law						
Law						
LAW	692	Summer Externships	4.00	S	0.00	
Ehrs: 4.00 GPA-Hrs: 0.00 QPts: 0.00 GPA: 0.00						
Fall 2021 - Urbana-Champaign						
Law						
Law						
LAW	633	Business Associations I	3.00	A	12.00	
LAW	680	Professional Responsibility	3.00	A	12.00	
LAW	682	Evidence	3.00	A	12.00	
********** CONTINUED ON NEXT COLUMN **********						

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
Institution Information continued:						
LAW	696	Law Review	1.00	S	0.00	
LAW	696	Law Teaching Practicum	2.00	S	0.00	
LAW	793	Adv Legal Writing: App Adv	2.00	A-	7.34	
Ehrs: 14.00 GPA-Hrs: 11.00 QPts: 43.34 GPA: 3.94						
Harno Scholar						
Spring 2022 - Urbana-Champaign						
Law						
Law						
LAW	631	Secured Transactions	3.00	A	12.00	
LAW	654	International Trade Policy	3.00	A	12.00	
LAW	696	Law Review	1.00	S	0.00	
LAW	697	Green Int'l Competition	1.00	S	0.00	
LAW	792	Conflict of Laws	3.00	A-	11.01	
LAW	798	First Amendment	2.00	A	8.00	
Ehrs: 13.00 GPA-Hrs: 11.00 QPts: 43.01 GPA: 3.91						
Harno Scholar						
Fall 2022 - Urbana-Champaign						
Law						
Law						
LAW	605	Criminal Proc: Investigation	3.00	A	12.00	
LAW	668	Decedents' Estates and Trusts	3.00	A	12.00	
LAW	684	Federal Courts	4.00	A	16.00	
LAW	692	State App Prosecutor	2.00	S	0.00	
LAW	696	Law Review	2.00	S	0.00	
LAW	697	Green External Competition	1.00	S	0.00	
Ehrs: 15.00 GPA-Hrs: 10.00 QPts: 40.00 GPA: 4.00						
Spring 2023 - Urbana-Champaign						
IN PROGRESS WORK						
LAW	615	Administrative Law	3.00	IN PROGRESS		
LAW	642	Antitrust Law	4.00	IN PROGRESS		
LAW	692	State App Prosecutor	2.00	IN PROGRESS		
LAW	696	Law Review	2.00	IN PROGRESS		
LAW	697	7th Circuit Moot Court	1.00	IN PROGRESS		
LAW	697	Moot Court Practicum	2.00	IN PROGRESS		
In Progress Credits 14.00						
********** CONTINUED ON PAGE 2 **********						

Recipient: JDELAN22@ILLINOIS.EDU
Student email: jdelan22@illinois.edu
Issued to: REFNUM: 20098976309

Meghan Hazen, Registrar

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UNIVERSITY OF ILLINOIS URBANA - CHAMPAIGN

Urbana, Illinois 61801

Student Name: **DeLaney, John Robert Butler**

University ID: **660000790** **Issue Date:** **17 - Mar - 23**

Level: **Law - Urbana-Champaign** **Day - Month of Birth:** **25 - Mar**

********** TRANSCRIPT TOTALS **********

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	77.00	62.00	242.06	3.90
TOTAL TRANSFER	0.00	0.00	0.00	0.00
OVERALL	77.00	62.00	242.06	3.90

********** END OF TRANSCRIPT **********

Meghan Hazen, Registrar

This electronic transcript, as delivered in PDF form, has a transcript explanation at the end of the document which details authentication information.

www.registrar.illinois.edu

UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN
OFFICE OF THE REGISTRAR, 901 W ILLINOIS, SUITE 140, URBANA, IL 61801-3446

PH (217) 333-9778 /
FAX (217) 333-3100

FULL TRANSCRIPT EXPLANATION IS AVAILABLE ON THE WEB AT: http://go.illinois.edu/transcript
Transcript information for students who attended the University of Illinois Urbana-Champaign prior to 1982 is available at: https://registrar.illinois.edu/wp-content/uploads/2018/06/pre_1982_key.pdf

ACCREDITATION:
Higher Learning Commission of the North Central Association of Colleges and Schools.

ACADEMIC CALENDAR:
The University of Illinois Urbana-Champaign operates on an academic calendar of two sixteen-week semesters and, beginning in 2005, one twelve-week summer term. Prior to 2005, the summer calendar included a four-week summer session (referred to as Intersession prior to 1995) and one eight-week summer session. Beginning December 2014, winter sessions are included between the fall and spring semesters.

PRIVACY NOTICE:
In accordance with the Family Educational Rights and Privacy Act (FERPA) of 1974, this document cannot be released to a third party without the written consent of the student.

OFFICIAL TRANSCRIPT:
A transcript is official when it bears the signature of the Registrar on officially printed paper or an electronic version that is sent directly from the institution to the recipient (see below). Transcripts that are provided directly to students are marked "Issued to Student." Partial or incomplete transcripts are not issued except upon request and only issued by student level (Undergraduate, Graduate, Law, Medicine, or Veterinary Medicine). Those transcripts are labeled "Partial Transcript."

06/07/2022

Northwestern University
633 Clark Street
Evanston, IL 60208
United States

Name: **Delaney,John Robert Butler**
Student ID: **2319477**

Official Undergraduate Transcript

Print Date: 07/05/2019

Degrees Awarded

Degree: Bachelor of Arts
Confer Date: 06/15/2007
Plan: Political Science Major
Plan: Psychology Minor

Test Credits

Test Credits Applied Toward Bienen School of Music

2003 Fall

Course		Description	Attempted	Earned	Grade	Points
ENGLISH	1LT	English Literature Credit	1.000	1.000	T	0.000
ENGLISH	1LT	English Literature Credit	1.000	1.000	T	0.000
ENVR_SCI	1XX	Envron Sci 1XX	1.000	1.000	T	0.000
HISTORY	2US	US History Credit	1.000	1.000	T	0.000
HISTORY	2US	US History Credit	1.000	1.000	T	0.000

Test Trans GPA: 0.000 Transfer Totals: 5.000 5.000 0.000

Beginning of Undergraduate Record

2003 Fall (09/24/2003- 12/12/2003)

Program: School of Music
Plan: Voice & Opera Major

Program: Weinberg College of Arts & Sci
Plan: Undeclared Major

Course		Description	Attempted	Earned	Grade	Points
ANTHRO	255-0	Contemp African Worlds	1.000	1.000	A	4.000
CONDUCT	368-0	Chapel Choir	0.500	0.500	A	2.000
FRENCH	121-1	2nd Yr Fr	1.000	1.000	A	4.000
MUSIC	111-1	Theory I	0.500	0.500	B+	1.650
MUSIC	126-1	Aural Skills I	0.500	0.500	B	1.500
MUSIC	127-0	Keyboard Skills	0.500	0.500	A-	1.850
VOICE	110-0	Voice	1.000	1.000	B	3.000
VOICE	111-1	Phonetic/Diction	0.000	0.000	S	0.000
VOICE	311-0	Vocal Solo Class	0.000	0.000	S	0.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.600	Term Totals	5.000	5.000	5.000	18.000
Transfer Term GPA		Transfer Totals	5.000	5.000	0.000	0.000
Combined GPA	3.600	Comb Totals	10.000	10.000	5.000	18.000

2004 Winter (01/05/2004- 03/19/2004)

Program: School of Music
Plan: Voice & Opera Major

Program: Weinberg College of Arts & Sci
Plan: Undeclared Major

Course		Description	Attempted	Earned	Grade	Points
CONDUCT	368-0	Chapel Choir	0.500	0.500	A	2.000
FRENCH	123-0	2nd-Yr Fr Indiv	1.000	1.000	B+	3.300
GERMAN	104-6	Freshman Seminar	1.000	1.000	B+	3.300
Course Topic:		Law of Literature				
MUSIC	111-2	Theory I	0.500	0.500	B+	1.650
MUSIC	126-2	Aural Skills II	0.500	0.500	B-	1.350
MUSIC	127-0	Keyboard Skills	0.500	0.500	A	2.000
VOICE	110-0	Voice	1.000	1.000	B-	2.700
VOICE	111-2	Phonetic/Diction	0.000	0.000	S	0.000
VOICE	311-0	Vocal Solo Class	0.000	0.000	S	0.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.260	Term Totals	5.000	5.000	5.000	16.300

2004 Spring (03/29/2004- 06/11/2004)

Program: School of Music
Plan: Voice & Opera Major

Program: Weinberg College of Arts & Sci
Plan: Undeclared Major

Course		Description	Attempted	Earned	Grade	Points
CONDUCT	368-0	Chapel Choir	0.500	0.500	A	2.000
ENGLISH	101-6	Freshman Seminar	1.000	1.000	A	4.000
Course Topic:		Writing Black Radicalism				
FRENCH	123-0	2nd-Yr Fr Indiv	1.000	1.000	A-	3.700
GEN_LA	380-7	Resid Coll Tut	1.000	1.000	B+	3.300
Course Topic:		Prospects of U.S. World Hegemo				
INTL_ST	201-3	Intro World Sys	1.000	1.000	A-	3.700
SLAVIC	210-1	Intro Russ Lit	1.000	1.000	A-	3.700

			Attempted	Earned	GPA Units	Points
Term GPA	3.709	Term Totals	5.500	5.500	5.500	20.400

2004 Fall (09/22/2004- 12/10/2004)

Program: Weinberg College of Arts & Sci
Plan: Undeclared Major

Course		Description	Attempted	Earned	Grade	Points
EDIT	201-0	Edit/Writ News	1.000	1.000	B	3.000
FRENCH	201-0	Intro French Stu	1.000	1.000	A-	3.700
MATH	212-1	Advanced Con Wkshp	0.000	0.000	S	0.000
MATH	214-1	Calculus	1.000	1.000	A-	3.700
PHIL	210-1	Hist Phil	1.000	1.000	A-	3.700
Course Topic:		Ancient				
POLI_SCI	230-0	Law in Pol Arena	1.000	1.000	A	4.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.620	Term Totals	5.000	5.000	5.000	18.100

Northwestern University
633 Clark Street
Evanston, IL 60208
United States

Name: **Delaney,John Robert Butler**
Student ID: **2319477**

Official Undergraduate Transcript

2005 Winter (01/03/2005- 03/18/2005)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major

Course		Description	Attempted	Earned	Grade	Points
ANTHRO	214-0	Culture Origins	1.000	1.000	A-	3.700
COMP_LIT	281-0	Modernism to Postmodernism	1.000	1.000	A	4.000
CONDUCT	368-0	Chapel Choir	0.500	0.500	A	2.000
MATH	212-2	Advanced Con Wkshp	0.000	0.000	S	0.000
MATH	214-2	Integral Calc	1.000	1.000	A-	3.700
PSYCH	110-0	Intro Psychology	1.000	1.000	A	4.000

		Attempted	Earned	GPA Units	Points
Term GPA	3.867 Term Totals	4.500	4.500	4.500	17.400

2005 Spring (03/29/2005- 06/10/2005)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major

Course		Description	Attempted	Earned	Grade	Points
COMP_LIT	206-0	Literature and Media	1.000	1.000	A	4.000
CONDUCT	364-0	Choral Org	0.500	0.500	A	2.000
Course Topic:		University Chorus				
POLI_SCI	201-2	Hist of Poli Thought	1.000	1.000	A-	3.700
POLI_SCI	204-0	Politics/Nature	1.000	1.000	A	4.000
PSYCH	212-0	Intr to Neurosci	1.000	1.000	A	4.000

		Attempted	Earned	GPA Units	Points
Term GPA	3.933 Term Totals	4.500	4.500	4.500	17.700

2005 Summer (06/20/2005- 08/26/2005)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major
Plan: Psychology Minor

Course		Description	Attempted	Earned	Grade	Points
CHEM	101-0	General Chem	1.000	1.000	A-	3.700
COMP_LIT	390-0	Topics Comp Lit	1.000	1.000	A	4.000
Course Topic:		Postmodern Cinema				

		Attempted	Earned	GPA Units	Points
Term GPA	3.850 Term Totals	2.000	2.000	2.000	7.700

2005 Fall (09/20/2005- 12/09/2005)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major
Plan: Psychology Minor

Transfer Credit from SMITH COLLEGE-GENEVA
Applied Toward Weinberg College of Arts & Sci Program

Course		Description	Attempted	Earned	Grade	Points
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000

Course		Description	Attempted	Earned	Grade	Points
GEN_LA	354-0	St Abrd Affiliated	0.000	0.000		0.000
SMITH COLLEGE-GENEVA						

			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	0.000	0.000	0.000	0.000
Transfer Term GPA		Transfer Totals	4.000	4.000	0.000	0.000
Combined GPA	0.000	Comb Totals	4.000	4.000	0.000	0.000

2006 Winter (01/03/2006- 03/17/2006)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major
Plan: Psychology Minor

Transfer Credit from SMITH COLLEGE-GENEVA
Applied Toward Weinberg College of Arts & Sci Program

Course		Description	Attempted	Earned	Grade	Points
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
POLI_SCI	343-CN	International Law	1.000	1.000	T	0.000
PSYCH	314-0	Special Topics	1.000	1.000	T	0.000

Course		Description	Attempted	Earned	Grade	Points
GEN_LA	354-0	St Abrd Affiliated	0.000	0.000		0.000
SMITH COLLEGE-GENEVA						

			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	0.000	0.000	0.000	0.000
Transfer Term GPA		Transfer Totals	4.000	4.000	0.000	0.000
Combined GPA	0.000	Comb Totals	4.000	4.000	0.000	0.000

2006 Spring (03/27/2006- 06/09/2006)
Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major
Plan: Psychology Minor

Transfer Credit from SMITH COLLEGE-GENEVA
Applied Toward Weinberg College of Arts & Sci Program

Course		Description	Attempted	Earned	Grade	Points
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
GEN_CRED	1XX	Gen Credit 1XX	1.000	1.000	T	0.000
POLI_SCI	373-0	National Securit	1.000	1.000	T	0.000
PSYCH	314-0	Special Topics	1.000	1.000	T	0.000

Northwestern University
633 Clark Street
Evanston, IL 60208
United States

Name: **Delaney,John Robert Butler**
Student ID: **2319477**

Official Undergraduate Transcript

Course		Description	Attempted	Earned	Grade	Points
GEN_LA	354-0	St Abrd Affiliated	0.000	0.000		0.000

SMITH COLLEGE-GENEVA

			Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	0.000	0.000	0.000	0.000
Transfer Term GPA		Transfer Totals	4.000	4.000	0.000	0.000
Combined GPA	0.000	Comb Totals	4.000	4.000	0.000	0.000

2006 Fall (09/19/2006- 12/08/2006)

Program: Weinberg College of Arts & Sci
Plan: Comparative Literary Studies Major
Plan: Political Science Major
Plan: Psychology Minor

Course		Description	Attempted	Earned	Grade	Points
ECON	201-0	Intro Macroecon	1.000	1.000	A	4.000
POLI_SCI	395-0	Research Seminar	1.000	1.000	A-	3.700
Course Topic:		Military/Society/Use of Force				
PSYCH	201-0	Stat Meth Psy	1.000	1.000	A-	3.700
SPANISH	101-1	Elementary Span	1.000	1.000	A	4.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.850	Term Totals	4.000	4.000	4.000	15.400

2007 Winter (01/03/2007- 03/16/2007)

Program: Weinberg College of Arts & Sci
Plan: Political Science Major
Plan: Psychology Minor

Course		Description	Attempted	Earned	Grade	Points
ECON	202-0	Intro Microecon	1.000	1.000	A	4.000
POLI_SCI	311-0	Methods of Political Research	1.000	1.000	A-	3.700
PSYCH	204-0	Social Psych	1.000	1.000	A	4.000
SPANISH	101-2	Elementary Span	1.000	1.000	A	4.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.925	Term Totals	4.000	4.000	4.000	15.700

2007 Spring (03/26/2007- 06/08/2007)

Program: Weinberg College of Arts & Sci
Plan: Political Science Major
Plan: Psychology Minor

Course		Description	Attempted	Earned	Grade	Points
POLI_SCI	341-0	International Political Econo	1.000	1.000	A-	3.700
POLI_SCI	375-0	Bus-Gov Relation	1.000	1.000	A	4.000
POLI_SCI	399-0	Indep Study	1.000	1.000	A	4.000
PSYCH	205-0	Res Meth in Psyc	1.000	1.000	A-	3.700

			Attempted	Earned	GPA Units	Points
Term GPA	3.850	Term Totals	4.000	4.000	4.000	15.400

Undergraduate Career Totals

Cum GPA	3.726	Cum Totals	43.500	43.500	43.500	162.100
Transfer Cum GPA		Transfer Totals	17.000	17.000	0.000	0.000
Combined Cum GPA	3.726	Comb Totals	60.500	60.500	43.500	162.100

Non-Course Milestones

Foreign Language Proficiency:
Program: Weinberg College of Arts & Sci
Milestone Title: Two year proficiency in French established by examination

WCAS Writing Proficiency Requirement Completed
Program: Weinberg College of Arts & Sci

End of Official Undergraduate Transcript

NORTHWESTERN UNIVERSITY
Evanston, Illinois

ACCREDITATION
Northwestern University is accredited by the Higher Learning Commission (www.hlcommission.org). Other professional, college, school, and departmental accreditations are listed here:
http://www.registrar.northwestern.edu/academic_records/index.html
Northwestern University's CEEB code is 001739.

OFFICE OF RECORD
The Office of the Registrar, 633 Clark Street, Evanston, Illinois 60208, (847) 491-5234, fax: (847) 491-8458, www.registrar.northwestern.edu, issues transcripts of records for the following schools in the University. Such transcripts are a complete and chronological listing of all courses attempted in any of the schools listed.

Bienen School of Music
Dental School (closed 2001)
The Graduate School
McCormick School of Engineering and Applied Science
Graduate Nursing School (closed 1990)
Physician Assistant Program
Kellogg School of Management
School of Communication (formerly Speech)
School of Education and Social Policy
Weinberg College of Arts and Sciences
Medill School of Journalism, Media, Integrated Marketing Communications
Prosthetics-Orthotics (Master's program only)

The Office of the Dean/Director of each school/program listed below issues transcripts of records for these units. These transcripts must be requested separately and in addition to any transcripts from other Northwestern schools.

Northwestern Pritzker School of Law (312) 503-8464, www.law.northwestern.edu
Northwestern University in Qatar 974-4454-5072, www.qatar.northwestern.edu
Feinberg School of Medicine (312) 503-1369 www.feinberg.northwestern.edu
School of Professional Studies (312) 503-6950 www.sps.northwestern.edu
Physical Therapy (312) 908-8160 www.feinberg.northwestern.edu/sites/pthms/
Prosthetics-Orthotics (certificates) (312) 503-5700 www.nupoc.northwestern.edu/

ACADEMIC CALENDARS
Northwestern University offers programs on numerous calendars. Unless listed specifically below, the calendar on this transcript is a quarter system consisting of three quarters lasting approximately 10 weeks and one summer session lasting 10-11 weeks. Terms may include shorter sessions. The Executive MBA Program through the Kellogg School of Management is an exception with class meetings on designated weekends during terms corresponding to the quarter calendar.

Northwestern University in Qatar operates on a traditional semester calendar consisting of two terms each lasting 16 weeks and one summer term.

The Physician Assistant Program operates on a trimester calendar consisting of three terms each lasting 16 weeks.

The Physical Therapy Program operates on a semester calendar consisting of three terms each lasting 16 weeks.

The Prosthetics-Orthotics master's program uses a course unit system in which a 1 in the earned and attempted column = 1-unit course. For the purpose of transfer credit, one unit should be considered to be the equivalent of four quarter hours or 2 2/3 semester hours.

CREDIT
For quarter-based programs, in September 1969 NU began using a course unit system in which a 1 in the earned and attempted column = 1-unit course. For the purpose of transfer credit, one unit should be considered to be the equivalent of **four quarter hours or 2 2/3 semester hours.**

Prior to 2006 the Summer Session was based on a semester system and credits taken in that context should be considered to be the equivalent of four quarter hours or three semester hours.
For an explanation of credits earned in quarter-based programs prior to 1969: http://www.registrar.northwestern.edu/academic_records/index.html

The Physician Assistant program uses a trimester hour credit measure in which each credit hour corresponds to an hour of meeting time for each week of a 16-week trimester.

The Physical Therapy program uses a semester hour credit measure in which each credit hour corresponds to an hour of meeting time for each week of a 16-week semester.

The Prosthetics-Orthotics master's program uses a course unit system in which a 1 in the earned and attempted column = 1 course. For the purpose of transfer credit, one course should be considered to be the equivalent of four quarter hours or 2 2/3 semester hours.

Northwestern University in Qatar uses a course unit system in which a 1 in the earned and attempted column = 1-unit course. For the purposes of transfer credit, one unit should be considered to be the equivalent of four semester hours.

GRADE POINT AVERAGE (GPA)
All courses attempted are recorded on the transcript and used in the GPA calculation. GPA is computed by taking the total grade points divided by the attempted units. NR, T, TR, P, N, K, S, U, and W grades are not included in GPA calculations.

Northwestern University does not calculate major GPAs nor does it rank its students.

EXPLANATION OF GRADE POINTS AND GRADES
For grade categories and years not represented below visit: www.registrar.northwestern.edu/academic_records/index.html

Note: GPAs are not calculated on official graduate and professional transcripts.

ABC GRADING SCALE

Grade Points	Grade	Description
4.0	A	Excellent
3.7	A-	
3.3	B+	
3.0	B	Good
2.7	B-	
2.3	C+	
2.0	C	Satisfactory
1.7	C-	
1.0	D	Poor but passing
0.0	F	Fail
0.0	X	Missed final exam
0.0	Y	Work incomplete

BY SCHOOL, WHEN THE GRADE RUBRIC ABOVE IS APPLICABLE

Undergraduate Programs	September 1982 - present
Bienen School of Music (graduate programs)	January 2005 – present
School of Communication (graduate programs)	September 2005 - present
School of Education and Social Policy (graduate programs – D grade not used)	March 2005 - present
The Graduate School (D grade not used)	September 2004 - present
Medill School of Journalism, Media, Integrated Marketing Communications (graduate programs – D grade not used)	October 1986 - present
McCormick School of Engineering and Applied Science (graduate programs)	September 1996 - present

GRADE POINTS AND GRADES USED BY KELLOGG SCHOOL OF MANAGEMENT (non-executive MBA Programs)

Grade Points	Grade	Description
4.0	A	Excellent
3.0	B	Good
2.0	C	Satisfactory
1.0	D	Poor but passing
0.0	F	Fail
0.0	X	Missed final exam
0.0	Y	Work incomplete

TRANSCRIPT NOTATIONS AND ABBREVIATIONS CURRENTLY IN USE

HP	High Pass
K	Indicates work in progress°
LP	Low Pass
N	No grade, no credit°
NR	No grade Reported by Instructor
P	Pass with credit°
S	Satisfactory (non-credit course)
T	Transfer grade° (Spring Quarter 1969-70, full academic credit)
TR	Transfer grade° (Qatar Campus)
U	Unsatisfactory (non-credit course)
V	Visitor (auditor)
W	Withdrew - with permission
X	Absent from final examination°°
Y	Incomplete - Additional work required°°
°	Not included in either the quarterly or the cumulative grade point average
°°	Carries zero grade points and included in calculation of GPA. Both the quarterly and cumulative GPA are changed if a final grade is reported

TRANSCRIPT SYMBOLS

*	Grades received by special report
#	Duplication
##	Not applicable toward degree

For transcript notations and symbols not described here: http://www.registrar.northwestern.edu/academic_records/index.html

DEGREES AWARDED
For a complete list of degrees awarded:
www.registrar.northwestern.edu/academic_records/index.html

TRANSFER CREDIT
Undergraduate records document articulated transfer credit by listing the institution of record and a T grade for each approved course. Grades for work transferred from another institution are not recorded. If such grades are needed the student must request a transcript directly from the awarding institution.

STATUS
Students should be regarded as in good academic standing unless otherwise noted. Each unit devises a probation/suspension/withdrawal policy, as well as academic eligibility to re-enroll after an absence.

COURSE NUMBERING SYSTEM

A/100 level	Courses primarily for freshmen and sophomores, usually without college prerequisite.
B/200 level	Courses primarily for sophomores and juniors, usually with the prerequisite of an A/100 level course in the same or a related department.
C/300 level	Courses primarily for upperclassmen and graduates, often with the prerequisites of an A/100 and/or B/200 level course in the same or a related department.
D/400 level	Courses or seminars primarily for graduates, in which the major part of the work is not research.
E/500 level	Courses for graduates only; seminars in which the work is primarily research, or special research by the individual student under faculty direction.

COURSE SUBJECTS AND DESCRIPTIONS
For more details: www.northwestern.edu/caesar/

This Transcript Key was last updated in September 2016.

University of Illinois College of Law
504 East Pennsylvania Avenue
Champaign, IL 61820

April 01, 2023

The Honorable Michael Brennan
United States Courthouse and Federal Building
517 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Dear Judge Brennan:

I am writing to recommend judicial clerkship applicant Rob DeLaney. Mr. DeLaney would make an outstanding law clerk.

First, Mr. DeLaney is very smart. In my first-year Criminal Law course, Mr. DeLaney outscored all of his classmates on the three-hour final exam. (He also managed, improbably, to earn 175 of the 180 available points.) Mr. DeLaney's performance in my Evidence course also was outstanding. Of the 148 students in the course, only one managed to outscore Mr. DeLaney on the course's three-hour final exam, and she outscored him by only three points.

Second, Mr. DeLaney is exceptionally conscientious. In spring 2021, when Mr. DeLaney was a student in my Criminal Law class, most of the law school's classes were conducted exclusively on Zoom. My Criminal Law class, by contrast, was a "hybrid" course, which meant that students were given the option either of showing up in person (in a mask) or of attending remotely via Zoom. After the first few days of the semester, only two or three students regularly attended the class in person. Mr. DeLaney was one of the two or three students who regularly attended in person.

Showing up in person every day couldn't have been easy for Mr. DeLaney. The law building was almost vacant. The class met early, at 9 a.m. On some days, he was the only student in the large classroom. The students knew, because I told them, that I liked seeing students attend class in person. For most of the students, though, this wasn't a sufficient incentive to get them to the law building at 9 a.m. Mr. DeLaney's persistence in coming to class nearly every day – in rain, snow, etc. – says a lot, I think, about his diligence and seriousness of purpose.

Third, Mr. DeLaney is an exceptionally good writer. Each fall, the law school's legal writing professors select the top four students from across several sections of the second-year Advanced Appellate Advocacy course. These students then participate in the law school's flagship internal moot court competition, the Frederick Green Honorary Moot Court. Mr. DeLaney was among the four students selected in fall 2021. I had an opportunity to serve as a practice judge for Mr. DeLaney's team as they prepared for the internal moot court competition. His arguments were outstanding, as I'd expected them to be.

Finally, Mr. DeLaney seems like a very nice person. He is quiet and unassuming, but not at all shy or socially awkward.

If I can provide any further information, please don't hesitate to call or email me. I'd be delighted to talk further about Mr. DeLaney.

Best regards,

Eric A. Johnson
Professor of Law

University of Illinois College of Law
504 East Pennsylvania Avenue
Champaign, IL 61820
(217) 300-0385
mazzonej@illinois.edu

April 10, 2023

The Honorable Michael Brennan
United States Courthouse and Federal Building
517 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Dear Judge Brennan:

This letter is in support of Robert DeLaney's application for a clerkship in your chambers.

Robert was a student in my course in Constitutional Law I in the spring of 2021 and again in First Amendment Law (co-taught with Vik Amar) in the spring of 2022. Robert received a grade of A- in Constitutional Law I, putting him in the top 20% of the class. In First Amendment Law, Robert did even better: he earned a grade of A and was in the top three students in the course. On the exam in both courses, Robert demonstrated excellent legal skills and an impressive understanding of the cases we had considered throughout the semester. His answers were precise and well crafted. He identified virtually all of the issues being tested and he masterfully brought forth relevant cases to analyze those issues deftly and succinctly.

In class, Robert was a regular and informed participant. He routinely offered thoughtful comments that advanced the class discussion. On several occasions, Robert volunteered to tackle the most difficult questions the cases raised. Robert offered his views gently but persuasively; his style made him popular among his peers.

As you will see from Robert's application, his overall law school record is exceptional. He has consistently performed in the top 10% of the class. He has done this while taking on two very substantial roles: as a member of our moot court program and as executive editor of our law review. Robert advanced to the final—honorary—round of our moot court competition, arguing before a panel of distinguished judges. By tradition, I serve as "judge" for the final practice round the night before the real competition. Robert's performance (in a case involving a complex issue of First Amendment law in public schools) before me and then the next day before the panel of actual judges was superb. He was quick on his feet, articulate, thoughtful, and strategic. His performance was that of a seasoned advocate not a law student. As part of the moot court process, I also reviewed Robert's brief. It was clear and persuasive. Robert is a gifted writer and gifted analyst in the law.

On a personal level, Robert is delightful. He is highly professional. He does everything with efficiency and good humor. He is energetic and he works hard. Nothing seems to faze him. You might note that before law school Robert spent a year on a Fulbright in Senegal and two years teaching English in Jordan. I suspect that those experiences readied Robert for any challenge law school might present.
Robert will be an asset to chambers. I recommend him to you with great enthusiasm.

Sincerely,

Jason Mazzone
Albert E. Jenner, Jr. Professor of Law
Director, Program in Constitutional Theory, History and Law
University of Illinois College of Law
504 East Pennsylvania Avenue
Champaign, IL 61820
(217) 300-0385
mazzonej@illinois.edu

RICHARD J. ROSS
DAVID C. BAUM PROFESSOR OF LAW
AND PROFESSOR OF HISTORY
OFFICE PHONE: (217) 244-7890
EMAIL: RJROSS@ILLINOIS.EDU

University of Illinois College of Law
504 East Pennsylvania Avenue
Champaign, IL 61820

April 01, 2023

The Honorable Michael Brennan
United States Courthouse and Federal Building
517 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Dear Judge Brennan:

I am writing in support of Rob DeLaney's application for a judicial clerkship. I have known Delaney for two years. He was a student in my first-year Property course in fall 2020 and my teaching assistant in Property in fall 2021. I also served as faculty advisor for the note that he wrote for the University of Illinois Law Review. I believe that DeLaney would make a first-rate clerk.

DeLaney obtained an A+ in Property Law in fall 2020, the highest grade given in his section of 55 students. Largely on the basis of his superb performance in the course, I selected him as one of my two teaching assistants for fall 2021 Property. DeLaney was an excellent teaching assistant. He sat in on all of the classes, thereby engaging with the the material a second time. He held office hours weekly with students, discussing property doctrine and giving them the benefit of his advice about how to succeed as a law student (tips on briefing cases, preparing for examinations, etc). During the weeks before the examination, he volunteered to hold extra office hours to help the students review the course material. He was unfailingly professional and responsible.

I served as faculty advisor for DeLaney's law review note, "The Power of Force Majeure: Covid-19's Impact on Commercial Lease Disputes." DeLaney looked at courts' handling of claims by commercial tenants that Covid was an unexpected disaster beyond either party's control that authorized the tenants to reduce rent payments. The first ambition of the note was to chart how courts have responded to force majeure claims, as well as invocations of the common law doctrine of impossibility of performance. Who tended to win disputes over force majeure; what relief, if any, did courts grant; how did they analyze the issues? The second—and to my eyes, the even more interesting ambition—of the note was to produce a model force majeure clause that allocated risk between tenants and landlords for commercial disasters produced by a plague. If a pandemic significantly interfered with business, should the tenant continue to pay full rent and bear 100% of the burden of the plague, or should the tenant be allowed to reduce rent, thereby allocating the burden between tenant and landlord? Most force majeure cases have arisen not from pandemics but from natural disasters—floods, earthquakes—and from wars. Pandemics have special properties distinct from floods and wars and so a different allocation of risk is appropriate.

DeLaney's record of achievement is evident throughout his law school career. His high grades have earned him recognition as both a Harno Scholar and a Dean's Scholar. He has won the CALI ward for obtaining the highest grade in a course three times, in Criminal Law and Legal Research as well as Property. He is the Executive Editor of the University of Illinois Law Review. DeLaney served as a summer judicial extern for Judge John Robert Blakey of the United States District Court for the Northern District of Illinois. DeLaney is hard working, intelligent, engaging, and personable. He has impressed me with his curiosity and breadth of interests.

For all of these reasons, I am confident that DeLaney would be a first-rate clerk. I am able to recommend him with great enthusiasm.

Sincerely,

Richard Ross

Rob DeLaney

204 W Washington St, Apt 18 Urbana, IL 61801 jdelan22@illinois.edu (615) 319-9700

I have attached an appellate brief on behalf of the People of the State of Illinois for the case, *Illinois v. Marzette*, No. 4-22-0059, which I prepared in the State Appellate Prosecutor Clinic at the University of Illinois College of Law.

The selected text includes the Statement of Facts Section (pages 2–7) and the first part of the Argument Section (pages 8–17).

I personally researched and solo-authored this brief under the supervision of the Clinic Director, David Robinson, Chief Deputy Director at the State's Attorneys Appellate Prosecutor's Office in Springfield, Illinois. Mr. Robinson contributed minor stylistic edits and gave permission to use this brief as a writing sample.

I am also preparing an Oral Argument for the case before the Appellate Court of Illinois, Fourth Judicial District. The argument is scheduled for April 19, 2023, and will be held at Illinois State University in Bloomington-Normal, Illinois.

STATEMENT OF FACTS

1. The Shooting of Matthew Lorr

On April 9, 2017, at 12:22 A.M., police responded to a shooting at 201 Willard Avenue in Rockford, Illinois. (Sup4 C. 6) Matthew Lorr and Quynntreal Scott, also known as "Cuz," had been sitting in Lorr's Red Dodge Neon. (Sup3 R. 336) Lorr heard screeching tires and looked up. *Id.* He saw a silver Dodge Intrepid and a man standing in the street, carrying a gun with a red laser sight. (Sup3 R. 336; Sup4 C. 7) Scott saw two men, the Intrepid's driver and the passenger who had exited the vehicle, both pointing guns at the Neon. (Sup4 C. 7)

The Intrepid's passenger, a Black male with a grey shirt, began shooting, first at nearby houses and then at Lorr. (Sup3 R. 337; Sup4 C. 7) Bullets and shrapnel struck Lorr in the nose, upper lip, shoulder, neck, and thumb. (Sup3 R. 338) The man patted Lorr down for money, placed a gun to his head, and said it was his "time to die." (Sup3 R. 339) Lorr heard the trigger, but when the gun did not fire, the man returned to the Intrepid and fled the scene. *Id.*

2. The Armed Robbery of Toni Thomas and Lavetta Tripp

Six minutes later, at 12:28 A.M., police were notified of another armed robbery at 814 North Day Street, only 0.6 miles from the scene of the shooting. (Sup4 C. 8; Sup3 R. 174) Toni Thomas and Lavetta Tripp had been sitting in Thomas's Chevrolet Malibu outside Tripp's home. (Sup3 R. 366) Two Black males approached the vehicle, told the women to get out, and said not to look at them or they would shoot. (Sup3 R. 367, 541–42) The man next to Thomas was carrying a black gun with a red laser sight. (Sup3 R. 398)

The two men took Thomas's wallet and phone and Tripp's wallet and Michael Kors backpack. (Sup3 R. 541) Thomas then heard the men drive off and believed they were traveling North towards Auburn Street. (Sup3 R. 413)

3. The Pursuit and Arrest of Defendant and Miquan Sanders

At 12:29 A.M., Officer Michael Schneider, responding to a police report about the shooting, saw a Dodge Intrepid pulling out of the Auburn Manor apartment complex. (Sup3 R. 454–55) He turned on his lights, but the driver fled. (Sup3 R. 456–57) The car sped through traffic lights at speeds of eighty miles an hour, (Sup3 R. 457) entered a residential neighborhood, *id.*, and was located by police in a driveway at 2117 Quincy Street. (Sup3 R. 463) Schneider saw one suspect flee through the home's back yard and another into the house. (Sup3 R. 463–64)

With other officers on the scene, Schneider approached the Intrepid and felt that it was hot. (Sup3 R. 466) He knocked on the house's front door and met Vinell Friar, the homeowner, (Sup3 R. 478–79) who consented to a search of the home. (E. 128) Shantequa Marzette, defendant's sister, also lived at the home with her children. (Sup3 R. 87) Police found defendant in the living room under a blanket, laying between children and claiming to be sleeping. (E. 129)

Police then arrested defendant and recovered the Intrepid's key from the living room. *Id.* Shortly after, police arrested Sanders, who was hiding in a nearby garage. (Sup3 R. 444–45)

Police seized the following items from defendant's Intrepid: a black 0.40 caliber Hi-Point handgun lodged between the driver's seat and front door, (Sup3 R. 467, 475) a white stocking cap, a cell phone, a Michael Kors backpack, and a live 0.40 caliber round of ammunition. (E. 129–130) Police recovered a 0.40 caliber Glock 22 handgun with a laser sight from the garage where Sanders was arrested. (Sup3 R. 446–47) Some of Thomas's belongings from the robbery were also recovered from the Auburn Manor dumpster. (Sup3 R. 414)

4. Witnesses to the Shooting and Robbery

The Lorr shooting occurred at night, (Sup3 R. 336) in a dimly lit area, (Sup3 R. 349) and many of the witnesses ran or ducked for cover once the shooting started. (Sup3 R. 357; Sup4 C.

6) Gary Ibach lived near the scene of the shooting. (Sup3 R. 352) He saw a passenger emerge from a light-colored car in front of Lorr's Dodge Neon, (Sup3 R. 352–53) and then saw between two to seven shots fired, before ducking under a comforter. (Sup3 R. 361–62)

Jacob Price also lived nearby and was inside his home during the shooting. (Sup3 R. 185) Joaquin Haugabook was outside when the shooting began. (Sup4 C. 6) At a showup on April 9, 2017, neither Price, Haugabook, nor the Neon's passenger, Scott, could positively identify defendant or Sanders. (Sup4 C. 8)

Thomas and Tripp also participated in a police showup on April 9, 2017. (Sup3 R. 183–84) Thomas did not have her glasses and could not make a positive identification, (E. 103) but Tripp did identify defendant as the individual who approached her during the robbery. (Sup3 R. 184) Later the same day, Thomas identified Sanders from a photo array as the person on her side of the vehicle, who was carrying a gun with a red laser sight. (E. 102–03, 105)

5. Defendant's Jail Calls

While incarcerated, defendant made a series of phone calls to his girlfriend, Jasmin (Sup3 R. 276) instructing her to "do what she ha[d] to do" to get Thomas to sign an affidavit stating that defendant was not involved in the robbery. (C. 117) Defendant indicated that he would pay Thomas to sign an affidavit and condoned threats or acts of violence against Thomas. (C. 117–18) Jasmin asked defendant whether he was involved in the robbery, and defendant replied that he did not want to talk about it on the jail line. (C. 117)

Thomas testified that she received notes about the robbery, (Sup3 R. 375, 415) and recounted an incident where an unknown individual yelled at her, "That's that bitch right there," from a moving car. (Sup3 R. 429) When Thomas met with prosecutors prior to trial, she said she was afraid and would testify that she could not recall the details of the robbery. (Sup3 R. 421)

6. Pre-Trial Motions

In a pre-trial ruling, the circuit court agreed to allow other-crimes evidence involving the robbery of Thomas and Tripp for the non-propensity purposes of identity, opportunity, and proximity in place and time, with respect to the Lorr shooting. (Sup3 R. 208–09) At the time of its ruling, the court also had in its possession an unsigned, unfiled response from co-defendant Sanders to the same motion for other-crimes evidence in Sanders's case. (Sup4 C. 4) Sanders was tried separately, but the same judge presided over both cases, and the same prosecutor was assigned to both cases. *Id.* Sanders's attorney provided the court with a courtesy copy of the responsive motion but never filed it because Sanders subsequently plead guilty. *Id.*

The State sought to introduce evidence of defendant's jail calls under several different theories: to show forfeiture by wrongdoing, tacit admission of guilt, and consciousness of guilt. (C. 117–20, 124–27) It argued that defendant did not deny Jasmin's statements to him about the robbery because he was guilty, (Sup3 R. 277) and that the phone calls evidenced a conspiracy to make Thomas unavailable to testify. (Sup3 R. 274) The court reserved judgment on admitting the jail calls but listened to the recordings at trial. (C. 137, Sup3 R. 514–15)

Following the court's pre-trial rulings, (C. 137–39) defendant waived his right to a jury trial, (C. 134) and a bench trial was held in December 2019. (C. 264–65)

7. Thomas's Testimony and Impeachment

At trial, Thomas's testimony about the robbery was inconsistent with her statement to police following the incident. Thomas testified that she no longer remembered the brand of backpack—Michael Kors—that was stolen from Tripp. (Sup3 R. 371) She also claimed that she could no longer fully recall the robbery and that she only remembered comments made by Sanders during the incident. (Sup3 R. 411–12)

The State presented Thomas with her police statement to refresh her recollection. (Sup3 R. 373) Thomas agreed that she had made the statement, signed it, and was truthful when she spoke with police, four days after the robbery. (Sup3 R. 372–74) The State also called Officer Brad Shelton, who testified about taking Thomas's statement on April 13, 2017. (Sup3 R. 537–42) The circuit court relied on Shelton's testimony about Thomas's statement, as to the contested portions. (Sup3 R. 560)

8. Sanders's Testimony

Sanders testified that he committed the Lorr shooting with an individual known only as Slip. (Sup3 R. 574–76) He said that he used two guns during the shooting and dropped one of the guns in a car, which happened to belong to defendant. (Sup3 R. 576, 578) Sanders denied having met defendant prior to the events of the case. (Sup3 R. 574) He also acknowledged that he plead guilty to the robbery of Thomas and Tripp but denied that he took part in it. (Sup3 R. 586)

9. Conviction

Defendant was convicted of attempt murder on December 19, 2019. (Sup3 R. 679; C. 155) In its ruling, the court recounted the totality of the evidence, which showed beyond a reasonable doubt that defendant participated in the Lorr shooting. (Sup3 R. 669–79) It also found that the State proved defendant personally discharged a firearm during the shooting, based on the location of shell casings at the scene and evidence that placed defendant in the driver's seat of the Intrepid along with the 0.40 caliber Hi-Point handgun. (Sup3 R. 680)

The court sentenced defendant to twenty-three years for the attempt murder charge, (Sup3 R. 917) along with a twenty-year sentencing enhancement for personally discharging a firearm during the shooting. (Sup3 R. 680, 917)

10. Post-Trial Motion and Appeal

Defendant's post-trial counsel later filed a motion for a new trial, (C. 193–95) arguing trial counsel was ineffective for failing to call three witnesses—Price, Haugabook, and Scott—who were unable to identify Sanders or defendant in a showup following the shooting. (Sup3 R. 803–05) The court denied the motion. (Sup3 R. 842–43) This appeal followed. (C. 235–38)

ARGUMENT

I. The circuit court properly convicted defendant of attempt first-degree murder on a theory of accountability and properly applied a sentencing enhancement for personal discharge of a firearm.

Standard of Review

On direct appeal from a criminal conviction, a reviewing court considers "the evidence in the light most favorable to the prosecution" and asks whether "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *People v. McLaurin*, 2020 IL 124563, ¶ 22 (emphasis in original) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). The same standard of review applies to bench trials as well as jury trials, *People v. Brown*, 2013 IL 114196, ¶ 48, and to convictions based on circumstantial or direct evidence. *Id.* ¶ 49; *People v. Shah*, 2022 IL App (4th) 210244-U, ¶ 51.

A. Defendant was properly convicted of attempt first-degree murder on a theory of accountability.

General Authorities

An individual is properly convicted under an accountability theory when "either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids, abets, agrees, or attempts to aid [an]other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 2022). By engaging in a "common criminal design or agreement" with another person, an individual is liable for "any acts in the furtherance of that common design." *Id.*

Courts look to a totality of the circumstances to determine the presence of a common criminal design. *People v. Jackson*, 2020 IL App (4th) 170036, ¶ 47. Relevant factors include a defendant's prior affiliation with his co-defendant, arrival at the crime scene without dissociating from the criminal activity, fleeing the crime scene, or sharing in the proceeds of the crime. *Id.*;

see also People v. Taylor, 164 Ill. 2d 131, 141 (1995). These factors are interpreted broadly, *Jackson*, 2020 IL App (4th) 170036, ¶ 49 (citing *People v. White*, 2016 IL App (2d) 140479, ¶ 32), and establish accountability whenever a defendant was aware that his affiliates intended to engage in any common criminal act. *Id.* (citing *People v. Batchelor*, 171 Ill. 2d 367, 376 (1996)).

This Court has emphatically rejected the contention that a defendant must have "intent or knowledge specific to a particular crime" to be liable under an accountability theory. *Jackson*, 2020 IL App (4th) 170036, ¶ 36. It proclaimed that it was "stuffing the [shared-intent requirement's] mouth with garlic, and burying it in a lead-lined coffin in hallowed ground," *id.* ¶ 69, and explained that "shared intent is *not* an element of the common-design rule." *Id.* ¶ 41 (quoting *People v. Fernandez*, 2014 IL 115527, ¶ 21).

Instead, (1) shared intent to commit a specific offense and (2) a common design of criminal activity are two distinct bases for accountability liability. *Fernandez*, 2014 IL 115527, ¶ 21. Under the common design theory, a defendant is legally accountable for another person's conduct when there is sufficient "[e]vidence that [he] voluntarily attached himself to a group bent on illegal acts with knowledge of its [common] design." *Jackson*, 2020 IL App (4th) 170036, ¶ 45 (quoting *Fernandez*, 2014 IL 115527, ¶ 13). In *Jackson*, the defendant's joint arrival outside a school, along with the knowledge that his co-defendant was in possession of a firearm and intended to harm a student, was sufficient to show a common design. *Id.* ¶ 58.

The Court's decision in *Jackson* was consistent with the Illinois Supreme Court's decisions in *People v. Kessler*, 57 Ill. 2d 493, 499–500 (1974), and *People v. Armstrong*, 41 Ill. 2d 390, 298–99 (1968), both of which defendant cites.

Analysis

A totality of the evidence showed that defendant engaged in a common criminal design with Miquan Sanders to rob multiple individuals at gunpoint on April 9, 2017, resulting in the attempt murder of Matthew Lorr. First, the circuit court explained that defendant's involvement in the armed robbery of Toni Thomas and Lavetta Tripp on North Day Street implicated him in the Lorr shooting. (Sup3 R. 678–79) The Illinois Supreme Court has provided that other-crimes evidence can show a common criminal design. *Armstrong*, 41 Ill. 2d at 398. Here, by tying defendant to two separate incidents, which occurred within 0.6 miles of each other and within minutes, (Sup3 R. 174) the evidence showed a common design to commit armed robberies.

Second, the circuit court cited defendant's fleeing the Lorr shooting in his Intrepid, (Sup3 R. 672) and subsequent arrest at the house on Quincy Street. (Sup3 R. 673) This Court, in *Jackson*, explained that fleeing a crime scene is another factor that evidences a common design. *Jackson*, 2020 IL App (4th) 170036, ¶ 47. Here, defendant's flight showed consciousness of guilt and awareness of his involvement in a common design to commit armed assaults.

Third, the circuit court discussed physical evidence including the Michael Kors backpack and the Hi-Point handgun recovered from defendant's car, (Sup3 R. 673) which further tied him to the Lorr shooting and surrounding events. Again, in *Jackson*, this Court noted that possession of proceeds or evidence from a crime are additional factors that show a common design. *Jackson*, 2020 IL App (4th) 170036, ¶ 47. Here, Tripp identified defendant as one of the men who robbed her, (Sup3 R. 176, 184) and Tripp's Michael Kors backpack was recovered from the Intrepid's backseat. (Sup3 R. 673; E. 87) Police also recovered a Hi-Point handgun from the Intrepid, which was wedged between the driver's seat and door. (Sup3 R. 467, E. 81) It was in the locked-back position, indicating it had been fired, (Sup3 R. 473, 566; E. 81; Sup E. 6) and

ballistics evidence later showed that it was one of the guns used during the Lorr shooting. (Sup3 R. 678; E. 135–36) Together, the armed robbery proceeds and the Hi-Point confirm defendant's involvement in a common criminal design to commit armed robberies the night of April 9, 2017.

Based on the overwhelming evidence of a common criminal design, defendant was found guilty beyond a reasonable doubt for the attempt murder of Matthew Lorr. (Sup3 R. 679)

***People v. Dennis* does not apply to this case.**

Citing *People v. Dennis*, 181 Ill. 2d 87 (1998), defendant argues that his conviction under an accountability theory was improper unless the State could demonstrate a shared intent to commit a specific underlying offense. This argument is misplaced. Not only is *Dennis* distinguishable on its facts, but this Court has specifically rejected the notion that accountability requires shared intent to commit a specific offense.

In *Dennis*, the Court explained that the defendant could not be liable for armed robbery under an accountability theory when his companion did not inform him about the robbery until after it had already occurred. *Dennis*, 181 Ill. 2d at 108. In other words, the defendant could not have helped in the "planning or commission of [an] offense" about which he had no prior knowledge. 720 ILCS 5/5-2(c) (West 2022).

By comparison, the evidence in this case showed that defendant and his co-defendant were each armed and involved in a spree of criminal activity the night of April 9, 2017. (Sup3 R. 671–72) First, the two victims of the armed robbery, which occurred around the same time as the shooting, identified defendant and Sanders as their assailants. (Sup3 R. 176, 406; E. 105) They informed police that each man was carrying a weapon: one was carrying a gun with a red laser sight and the other also had a handgun. (Sup3 R. 176, 398) Proceeds from the armed robbery

were later recovered from the Auburn Manor complex's dumpster and from defendant's Dodge Intrepid. (Sup3 R. 414; E. 129)

Second, Matthew Lorr reported that one of his assailants was also carrying a gun with a red laser sight. (Sup3 R. 196; Sup4 C. 7) During the shooting, the assailant placed the gun against Lorr's head and said that it was his "time to die," clearly indicating an intent to kill, but the gun did not discharge. (Sup3 R. 339) Police later recovered a 0.40 caliber Glock handgun with a red laser sight where Sanders was arrested. (Sup3 R. 579, 673; E. 67, 69)

Third, defendant's Dodge Intrepid fled the scene of the Lorr shooting. (Sup3 R. 339) When defendant was arrested, his vehicle was hot to the touch, consistent with its use in a high-speed chase. (Sup3 R. 467) Police found a white stocking cap inside the Intrepid, (E. 129) which the Intrepid's driver had been wearing. (Sup3 R. 71–72) In addition, police found proceeds from the robbery, the Hi-Point handgun, and a live 0.40 caliber round of ammunition. (E. 129)

The totality of the evidence showed that defendant's involvement in the shooting of Matthew Lorr was not analogous to the situation in *Dennis*. *Cf. Dennis*, 181 Ill. 2d at 109. Instead, defendant was involved in a common design to commit armed robberies the night of April 9, 2017. The evidence showed that defendant was armed and discharged a firearm during the Lorr shotting. (Sup3 R. 680) Far from lacking any knowledge of the shooting until it occurred, defendant participated in the shooting and fled from police afterwards. (Sup3 R. 457, 463–64) Defendant's active participation in an armed robbery supports application of the common design rule and the circuit court's guilty verdict.

The common design rule does not require "shared intent" to commit a specific offense.

In *People v. Phillips*, this Court further explained that the "shared intent" rationale is wholly separate from the "common-design rule": "[S]hared intent is *not* an element of the

common-design rule. Instead, shared intent and common design are two separate bases upon which the State can prove legal accountability." 2014 IL App (4th) 120695, ¶ 48 (citing *People v. Fernandez*, 2014 IL 115527, ¶ 21). The decision in *Phillips* relied on the Illinois Supreme Court's discussion of the common-design rule in *People v. Fernandez*, where the defendant drove his friend to a parking lot to rob cars and was found liable for aggravated battery when his friend shot at a police officer on the scene. 2014 IL 115527, ¶ 17.

Like this Court in *Phillips* and the Illinois Supreme Court in *Fernandez*, the circuit court in this case determined that defendant engaged in a common design of criminal activity and properly convicted him on a theory of accountability. The totality of the evidence placed defendant and Sanders in defendant's Dodge Intrepid during the Lorr shooting. Shell casings showed that two guns—a 0.40 caliber Hi-Point and a 0.40 caliber Glock—were used in the Lorr shooting. (Sup3 R. 669) Ballistics and photographic evidence, to which both parties stipulated, showed two sets of shell casings from two guns at two distinct spots, next to the curb and in the middle of the street. (E. 33, 135–36) The guns were recovered separately, the Glock from the garage where Sanders was arrested, (Sup3 R. 579, 673; E. 67, 69) and the Hi-Point from the driver's side of defendant's Dodge Intrepid. (Sup3 R. 473, 566; E. 81; Sup E. 6)

Immediately following the shooting, police observed defendant's Dodge Intrepid driving evasively outside the Auburn Manor apartment complex. (Sup3 R. 49, 69) Police approached the vehicle, and it began to flee at speeds of eighty miles per hour. (Sup3 R. 457) Police observed the driver wearing a white stocking cap. (Sup3 R. 71–72) The chase ended at the house on Quincy Street. (Sup3 R. 56) Defendant was arrested inside the house, (E. 129) and Sanders was arrested shortly after, having fled into a nearby garage. (Sup3 R. 445)

The weight of the overwhelming evidence showed that defendant and Sanders were engaged in a spree of criminal activity on April 9, 2017. Evidence connecting defendant to the armed robbery on North Day Street placed him in the vicinity of the Lorr shooting. The discharged handgun recovered from defendant's Intrepid connected him to the shooting itself. Defendant's flight from the scene of the shooting confirmed his involvement. Because the chain of events demonstrates defendant's involvement in a common design to commit armed robberies, (Sup3 R. 678) defendant's conviction for the attempt murder of Matthew Lorr—one of those armed robbery victims—should be upheld.

B. The enhancement for personal discharge of a firearm was properly applied to defendant's sentence.

General Authorities

A conviction for attempt first-degree murder in Illinois carries with it a mandatory twenty-year sentencing enhancement when the defendant "personally discharged a firearm" during the offense. 720 ILCS 5/8-4(c)(1)(C) (West 2022).

The Illinois Supreme Court has addressed analogous language in the corresponding statutory sentencing enhancement for first-degree murder. *People v. Rodriguez*, 229 Ill. 2d 285, 295 (2008); 730 ILCS 5/5–8–1(d)(iii) (West 2022). The Court reasoned that the "personally discharged" language requires that defendants themselves must have "actually discharged a firearm" during the offense. *Rodriguez*, 229 Ill. 2d at 295. It explained that the legislative intent behind the sentencing enhancement was to "deter the use of firearms in the commission of a felony offense." *Id.*

The Illinois Supreme Court has also stated that circumstantial evidence fully supports a finding of guilt beyond a reasonable doubt in a criminal case. *People v. Hall*, 194 Ill. 2d 305, 330 (2000). The evidence is sufficient where, "taken together [it] satisfies the trier of fact beyond a

reasonable doubt of the defendant's guilt." *Id.* Just as circumstantial evidence can support a conviction for the underlying offense, it is equally compelling for a finding that a defendant personally discharged a firearm during that offense. *See People v. Trzeciak*, 2014 IL App (1st) 100259-B, ¶ 58–59, *as modified on denial of reh'g* (Dec. 3, 2014); *see also People v. Hibbler*, 2021 IL App (4th) 200022-U, ¶ 56, *appeal denied*, 184 N.E.3d 992 (Ill. 2022).

Analysis

The circuit court found sufficient circumstantial evidence to prove beyond a reasonable doubt that defendant personally discharged a firearm during the attempt murder. The court's ruling was consistent with the State's theory that there were "two guns" and "two shooters." (Sup3 R. 643) Ballistics and photographic evidence, to which both parties stipulated, showed two distinct sets of shell casings at the scene of the shooting. (E. 33, 135–36) Each set of casings matched two separate guns, the 0.40 caliber Hi-Point and the 0.40 caliber Glock handgun. (E. 135–36) The Glock was recovered in the garage where Sanders was arrested. (E. 67, 69) The Hi-Point was recovered from the driver's side of defendant's Dodge Intrepid. (E. 79, 81)

Police testimony also placed defendant at the scene of the shooting and connected him to the Hi-Point. Officer Schneider described his pursuit of the defendant's Intrepid. (Sup3 R. 51–53) He saw the Intrepid's driver wearing a white stocking cap. (Sup3 R. 71–72) After the car stopped at the house on Quincy Street, Schneider saw defendant knock on the front door and enter the house. (Sup3 R. 463–64) Police arrested defendant inside the house, where they recovered the vehicle's keys. (E. 129) Upon searching the Intrepid, police recovered the white stocking cap from the driver's side floorboard, the Hi-Point handgun in a locked-back position, and a live 0.40 caliber round of ammunition. (E. 81, 83, 89, 129)

Defendant's version of events—that he was not present during the shooting and had been outside the house smoking a cigarette (Sup3 R. 647)—was further discredited by defense's own case at trial. Defendant called Sanders, who claimed that he committed the Lorr shooting with another individual named Slip, that he used two guns during the shooting, and that he disposed one of the guns in a vehicle, which coincidentally belonged to defendant. (Sup3 R. 574–76, 578) Sanders also pled guilty to the robbery of Thomas and Tripp but denied committing it at trial. (Sup3 R. 586) The circuit court found Sanders's testimony inconsistent and not credible, (Sup3 R. 675) and it rejected defendant's version of events. (Sup3 R. 676)

Instead, based on the totality of the circumstantial evidence, the obvious and only reasonable conclusion is that defendant was armed with the Hi-Point handgun the night of April 9, 2017, and personally fired it during the Lorr shooting. (Sup3 R. 680) The handgun was recovered from the driver's side of defendant's Intrepid, (Sup3 R. 467, E. 81) placing it with defendant that night. Defendant himself stipulated to ballistics evidence showing that the gun had been fired during the shooting. (E. 135–36)

The shell casings at the crime scene were located in two distinct spots, the Hi-Point casings by the curb and the Glock casings in the middle of the street. (E. 33, 135–36) Between the casings was an empty space about the width of a vehicle, suggesting two shooters, one on each side of the Dodge Intrepid. (E. 33, Sup3 R. 644)

The armed robbery victims on North Day Street, Thomas and Tripp, also told police that defendant and Sanders were both armed with handguns. (C. 69) Defendant's use of a handgun during the robbery on North Day Street only confirms his opportunity to have used the same gun during the Lorr shooting.

As a result, the circuit court was fully justified in accepting the State's version of events, that there were "two shooters" and "two guns," (Sup3 R. 643) and it rightly found that defendant personally discharged the Hi-Point handgun during the Lorr shooting.

Rob DeLaney

204 W Washington St, Apt 18 Urbana, IL 61801 jdelan22@illinois.edu (615) 319-9700

The following is a selection from a mock Seventh Circuit appellate brief prepared for the 2023 Anderson Center Seventh Circuit Moot Court Competition, where it was awarded the prize for Best Appellee Brief.

The competition prompt involved Judge Rodney Baratheon, a fictional United States District Court, who granted a default judgment for discovery violations against Frey Corporation, a pharmaceutical company. In response, Frey argued that the grant of default judgment was an abuse of discretion and that the judge was personally biased, based on negative comments about Frey Corporation, which the judge made to the press and on his personal Facebook page.

The brief advocates for Judge Baratheon and has been redacted for length. The selected text includes a portion of the Argument Section, arguing that the judge's recusal was not required under the Due Process Clause.

III. Judge Baratheon's Statements in the *National Westeros* and on Facebook Did Not Require Recusal Under the Due Process Clause.

The Constitution requires judges to be fair and impartial, not gullible or naive. *See In re Murchison*, 349 U.S. 133, 135–36 (1955); *Liteky v. United States*, 510 U.S. 540, 551 (1994). When their impartiality is questioned, judges are entitled to an initial "presumption of honesty and integrity," *Withrow v. Larkin*, 421 U.S. 35, 47 (1975), which a party seeking recusal must overcome. The Due Process Clause represents "the outer boundaries of judicial disqualification." *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 828 (1986). It makes recusal the exception, not the rule.

The critical question for recusal under the Due Process Clause is whether the circumstances at issue, viewed objectively, would lead "the average judge" to be partial or create "an unconstitutional 'potential for bias.'" *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 881 (2009) (quoting *Mayberry v. Pennsylvania*, 400 U.S. 455, 466 (1971)). Recusal is required on due process grounds only when a judge (1) is actually biased, (2) was personally involved "as a prosecutor in a critical decision regarding the defendant's case," (3) has "a financial incentive in the case's outcome," or (4) has become "embroiled" in personal controversy with a litigant. *United States v. Williams*, 949 F.3d 1056, 1061 (7th Cir. 2020) (citations omitted).

Frey's only viable argument is that Judge Baratheon's extrajudicial statements somehow evidenced a personal controversy or bias, but even that argument is misplaced. Judge Baratheon's *National Westeros* interview was an attempt to correct Frey's public misrepresentations with factual statements based on in-court proceedings, not a prejudiced attack against Frey's attorneys. His

Facebook posts conveyed no bias, only the "general frustration" that is "insufficient to establish any constitutional violation." *Lavoie*, 475 U.S. at 821.

Due process requires recusal in only the most extreme cases, *id.*, and Judge Baratheon's denial of recusal was consistent with the Due Process Clause.

A. The *National Westeros* article revealed Judge Baratheon's frustration with Frey's attorneys' discovery violations, not a personal controversy with the litigants.

Judge Baratheon's interview expressed his disapproval of Frey's attorneys' document withholding, not a personal dispute or impermissible bias.

1. Mere frustration with a litigant does not demonstrate a personal controversy.

Controversies requiring recusal are characterized by a series of personal attacks or admonishments between a judge and the litigant throughout the course of a trial. *See, e.g.*, *Mayberry*, 400 U.S. at 462; *Taylor v. Hayes*, 418 U.S. 488, 502 (1974). Even where a personal controversy exists, recusal is generally only at issue where the judge would preside over the litigant's subsequent criminal contempt proceeding, due to the risk that the average judge could not remain impartial. *Mayberry*, 400 U.S. at 466. When a judge merely expresses hostility for a litigant's failure to follow courtroom procedures, however, recusal is not required. *See Ungar v. Sarafite*, 376 U.S. 575, 585–88 (1964).

Judge Baratheon's statements to the *National Westeros* are insufficient evidence of a personal controversy that requires recusal. Rather than an ongoing back-and-forth between the judge and litigant, *cf. Mayberry*, 400 U.S. at 456–62, Judge Baratheon's interview was a limited communication intended to correct the

spread of misinformation by Frey's attorneys. The judge only spoke after making preliminary findings at the May 5 sanctions hearing, R. Ex. A 2, Ex. G 1–2, and only to respond to Frey's attorneys' own inflammatory press release. R. Ex. H 1.

The judge may have compared Frey's attorneys' conduct to a "John Grisham movie," R. Ex. G 1, but this colorful language does not evoke the kind of personal animosity required for recusal under the Due Process Clause. In fact, the judge's remark that Frey's attorneys' document hiding was the worst he had ever seen, *id.*, has ample support in the record. It is uncontested that: (1) Frey's attorneys failed to comply with the fact discovery deadline, R. Ex. D 2 ¶ 9, despite receiving their requested extension, *id.* at 1 ¶ 4; R. Ex A 1; (2) produced a total of 371, 443 responsive documents after the close of discovery, R. Ex. D 2 ¶¶ 10–13; and (3) were subject to three motions to compel disclosure of documents. R. Ex. A 1–2.

Judge Baratheon had every reason to lament Frey's attorneys' failure to follow litigation procedures, *cf. Ungar*, 376 U.S. at 584, and no reason to recuse.

2. Recusal is discouraged where there is no showing of an extrajudicial bias.

An alleged personal controversy is most suspect when the judge's bias derives from an "extrajudicial source," rather than a litigant's in-court conduct. *See Liteky*, 510 U.S. at 555 (holding that recusal was not required under 28 U.S.C. § 455(a)'s stricter recusal standard). This Court found an inexcusable bias where a judge expressed his belief that "indigent prisoners [not be] released on bail pending their appeals" while denying a prisoner's request for release. *Franklin v. McCaughtry*, 398 F.3d 955, 961 (7th Cir. 2005) (requiring a new trial on due process grounds).

Judge Baratheon's default judgment order was a direct result of Frey's attorneys' own in-court conduct and was not influenced by an extrajudicial bias. Explaining his preliminary ruling of default judgment to the *Westeros*, the judge stated that Frey's attorneys had intentionally acted to delay judicial proceedings by withholding documents and providing "false statements" to the court. R. Ex. G 1–2.

The judge did comment on the overlapping documents in the *King's Landing* case, *id.* at 2, but there is no evidence that the outcome of that case influenced his own ruling. The judge was careful to note, for instance, that no *King's Landing* attorneys testified before him in the present case and that his default judgment order was a result of Frey's attorneys' unique actions in his own court. *Id.*

Judge Baratheon is free to form opinions about the litigants who appear before him. The Court has explained that "[i]mpartiality is not gullibility." *Liteky*, 510 U.S. at 551 (citation omitted). There is no evidence, however, that the judge's opinions influenced his duty to remain impartial. If anything, the identical result in the *King's Landing* case only shows that two federal judges independently found that two groups of Frey's attorneys blatantly violated the rules of discovery.

3. Frey's manufactured controversy undermines the principles of due process itself.

Due process requires recusal for the "probability of actual bias," *Caperton*, 556 U.S. at 872, not its mere appearance. In fact, the "'appearance' of impropriety alone has *never* led the Supreme Court to find that a party did not receive due process of law." *Del Vecchio v. Illinois Dep't of Corr.*, 31 F.3d 1363, 1392 (7th Cir. 1994) (Easterbrook, J., concurring) (emphasis added).

When assessing the probability of actual bias, courts carefully consider all the facts and circumstances. This Court, for example, held that a judge's ex parte communications did not require vacating a jury verdict, but the same judge's post-verdict remarks did require re-sentencing by another judge. *Shannon v. United States*, 39 F.4th 868, 884, 886 (7th Cir. 2022). The Court reasoned that the ex parte communications, while improper, did not suggest an actual bias, *id.* at 884, but the judge's prejudicial comments during sentencing did. *Id.* at 886.

In this case, the public exchange between Frey's attorneys and Judge Baratheon fails to satisfy the probability of bias standard. Importantly, Judge Baratheon did not speak with the *Westeros* until Friday, May 6. R. Ex. G 1. He had already issued his preliminary findings of fact and conclusions of law at the May 5 sanctions hearing, *id.*, which were accurately reflected in his May 16 ruling. R. Ex. B 1. Like the communications in *Shannon*, there is no indication that the judge's intervening statements had any impact on his final ruling. *Cf.* 39 F.4th at 884.

Instead, Frey's May 5 press release was merely an attempt to manufacture a personal controversy with Judge Baratheon as an artificial basis for recusal. The judge's decision to respond may admittedly have created the *appearance* of impropriety, but it is not evidence of an unconstitutional bias.

B. Judge Baratheon's Facebook posts expressed personal opinions about local media coverage, not actual bias against Frey Corporation.

Judge Baratheon's Facebook posts displayed his opinion about local media coverage and frustration over the national opioid crisis, not prejudice against Frey.

1. Personal opinions about topics of public concern cannot establish actual bias.

A judge's expression of frustration on a topic of public concern does not violate due process. *See Lavoie*, 475 U.S. at 818. In a case against an insurance company for bad-faith failure to pay claims, the Court held that a judge's comments to a reporter about his personal hostility towards insurance companies did not require recusal. *Id.* "[O]nly in the most extreme of cases" does the Constitution require disqualification for this type of general antipathy or bias. *Id.* at 821.

Just as a negative opinion about insurance companies does not require recusal, Judge Baratheon's views on local media and the opioid crisis did not violate the Due Process Clause. Judge Baratheon commented that "[the local] area has been rocked with [opioids] for decades" and criticized the local media's lack of coverage as tantamount to "fake news." R. Ex. F 2–3. The judge's mere frustration, however, does not warrant the inference that he would abandon his duty of impartiality when issuing findings of fact and rulings of law.

The Court also explained in *Lavoie* that a "rule of necessity" weighs against recusal for general expressions of opinion when the consequence would be to prohibit any judge from hearing a case. 475 U.S. at 828. In this case, responses to the judge's posts show that it would be difficult to find any individual without some opinion or knowledge of the opioid crisis. Forty-one Facebook users "liked" the judge's post. R. Ex. F 1. Fifteen "shared" it, *id.*, and nine posted responsive comments. *Id.* at 1–3. Given the pervasiveness of the issue, a "rule of necessity" cautions against recusal when dealing with such a broad topic of public concern.

2. Judge Baratheon avoided the opportunity to discuss Frey Corporation or the merits of the case.

"Judges are humans and will bring their experiences to the bench," but they are generally presumed to "rise above . . . potential biasing influences." *Williams*, 949 F.3d at 1062. For instance, a judge's incidental social media connection with a victim's family member, without additional evidence of bias, is insufficient to establish a due process violation. *Suh*, 630 F.3d at 692. Even a published article offering opinions about a theory of liability cannot, by itself, overcome the presumption of impartiality. *See, e.g.*, *In re Sherwin-Williams Co.*, 607 F.3d 474, 479 (7th Cir. 2010) (holding that recusal was not required under 28 U.S.C. § 455(a)).

In this case, Judge Baratheon's Facebook posts expressed disapproval of the local media, not his views on the present case. His initial post was an open question on local media's lack of interest in the opioid crisis. R. Ex. F 1. Subsequent posts elicited responses from a former local news employee and comments about the quality of the *Vale Eagle & Pen*. *Id.* at 1, 3.

Judge Baratheon's posts did explain that his question was prompted by a pending civil opioid case involving a $1.2 billion damages claim. *Id.* at 1–2. The judge did not once suggest, however, that he was predisposed to rule for one party or the other. Some online commenters expressed negative views about prescription drug manufacturers, R. Ex. F 2–3, but instead of discussing details about the case or mentioning the parties by name, the judge diverted the online conversation back to his initial focus on the media. *Id.* at 3. The judge's posts did not commit him to a particular legal result and do not show a disqualifying bias.

3. Requiring recusal for personal opinions expressed online would undermine due process and the impartiality of the judiciary.

The Court's prior decisions emphasize that constitutional recusal cases deal with "extreme facts." *Caperton*, 556 U.S. at 887. This Court has cautioned that requiring recusal for "trivial risks" may lead to "judge-shopping" and undermine the public's confidence in the impartiality of the judiciary. *Hook v. McDade*, 89 F.3d 350, 354 (7th Cir. 1996) (quoting *In re Mason*, 916 F.2d 384, 385–86 (7th Cir.1990)).

A judge interacting with the public on Facebook, while novel and perhaps unexpected, is not extreme. The issue of when and how judges should engage with the public on social media was the subject of a 2013 American Bar Association formal opinion. ABA Comm. on Ethics & Pro. Resp., Formal Op. 462 (2013). Commentators have noted that judges' online activity is only likely to increase. *See, e.g.*, John G. Browning, *Why Can't We Be Friends? Judges' Use of Social Media*, 68 U. Miami L. Rev. 487, 488 (2014). In addition, this Court has recognized that professional rules governing judicial conduct must also conform with judges' First Amendment rights. *See Siefert v. Alexander*, 608 F.3d 974, 983 (7th Cir. 2010).

Requiring recusal for Judge Baratheon expressing his personal opinions on Facebook would raise the "constitutional floor" that due process provides. *Caperton*, 556 U.S. at 889. The effect would be to curb state legislatures and the judiciary from regulating judicial conduct and offer opportunistic litigants a pretextual basis for recusal. *See id.* at 889–90. As a result, future litigants could use recusal to shop for their preferred judge, which would only undermine the public's "confidence . . . in the fairness and integrity of their courts." *See id.* at 902 (Roberts, C.J., dissenting).

Applicant Details

First Name	**Sandon**
Middle Initial	**X**
Last Name	**Fernandes**
Citizenship Status	**U. S. Citizen**
Email Address	**sandon.fernandes@uga.edu**
Address	**Address** Street **1907 S Milledge Ave., Apt H9** City **Athens** State/Territory **Georgia** Zip **30605** Country **United States**
Contact Phone Number	**6825212122**

Applicant Education

BA/BS From	**University of Texas-Arlington**
Date of BA/BS	**May 2020**
JD/LLB From	**University of Georgia School of Law** **http://www.nalplawschoolsonline.org/ndlsdir_search_results.asp?lscd=51102&yr=2011**
Date of JD/LLB	**May 15, 2024**
Class Rank	**5%**
Law Review/ Journal	**Yes**
Journal(s)	**Georgia Journal of International and Comparative Law**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Willem C. Vis International Commercial Arbitration Moot**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Rutledge, Peter
amyhill@uga.edu
706-542-7140

Howard, Anna
jessica.atkinson@uga.edu

References

Diane Amann – Regents' Professor of International Law, Emily & Ernest Woodruff Chair in International Law, Faculty Co-Director of the Dean Rusk International Law Center
Contact: amann@uga.edu; (706) 542-5238 (department phone)

Thomas E. Kadri - Assistant Professor of Law
Contact: tek@uga.edu; (706) 542-5065 (department phone)

Nakuma Wani-Kenyi – Attorney Advisor with the Department of Commerce Office of the Chief Counsel for International Commerce
Contact: NWani-Kenyi@doc.gov; (202) 394-3227

This applicant has certified that all data entered in this profile and any application documents are true and correct.

SANDON FERNANDES
1907 S. Milledge Ave. Apt. H9
Athens, GA 30605
sandon.fernandes@uga.edu
(682) 521-2122

June 6, 2023

The Honorable Michael Brennan
United States Court of Appeals for the Seventh Circuit
United States Courthouse and Federal Building
517 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Re: Application for Clerkship 2024–25 or later

Dear Judge Brennan:

I am a rising third-year law student at the University of Georgia, and I am excited about the possibility of working as your judicial clerk in the 2024–25 term or later. The court system has a special role in resolving disagreements in our community, and I am eager to develop a better understanding of dispute-resolutions from a federal standpoint in addition to familiarizing myself with the day-to-day operations of the federal appellate court system. Since I was in seventh grade, I have dreamed about practicing as an attorney, and I have taken significant steps to make sure that I possess the proper skill sets to excel in this field.

Legal research has fascinated me, beginning with my first moot court competition in undergrad—learning how a judge analogizes and distinguishes similar cases with unique fact patterns and grounds his/her decisions in the rule of law. In the course of my education, I had the pleasure of working with two judges—as an intern for a justice of the peace in Arlington, Texas, during my senior year in high school and more recently as a judicial intern for the Honorable Jane J. Boyle of the United States District Court for the Northern District of Texas. Judge Boyle was adamant in ensuring that her interns were immersed in hands-on legal research and writing assignments. During my time in her chambers, I drafted six of her orders which addressed choice of law issues, joinder disputes, and statutory interpretation issues.

I hope that I can further my knowledge of agency and regulatory law within your chambers. My goal is to practice as an international finance attorney. This combined with my interest in constitutional and administrative law draws me towards a clerkship. A position with your chambers would allow me to approach litigation from a broader perspective than my previous encounters in a county or district court setting. My previous experiences provide a unique balance to your chambers since I am able to analyze local, state, national, and international legal matters from the perspectives of state and federal legislatures, agencies, and courts.

Please let me know if you would like any additional information, and I appreciate you continuing to consider my application.

Sincerely,

Sandon Fernandes

Sandon Fernandes

Sandon Fernandes

1907 S. Milledge Ave. Apt. H9 • Athens, GA 30605 • sandon.fernandes@uga.edu • (682) 521-2122

EDUCATION

University of Georgia School of Law, Athens, Georgia
Candidate for Juris Doctor, May 2024
GPA: 3.86 • Rank 7/191
Honors: Wyck A. Knox Jr. Law Scholarship • Gabriel M. Wilner Scholarship
CALI Award for top grade in Legal Research
Advocacy: Vis International Commercial Arbitration Moot • Top 8, 1L Moot Court Competition
Leadership: Executive Articles Editor, *Georgia Journal of International and Comparative Law*
Vice-President, International Law Society
Member of Federalist Society Student Chapter

University of Texas at Arlington, Arlington, Texas
Bachelor of Arts in History • Bachelor of Arts in Spanish Translation & Interpretation, May 2020
GPA: 3.88 • *magna cum laude*
Honors: Outstanding Spanish Interpreter Award
Activities: Translated publication, *Stories to our Children* • UTA Roundtable head, Knights of Columbus

EXPERIENCE

Jones Day, Dallas, Texas — May 2023-present
Summer Associate
- Research state and federal case law pertaining to financial markets and tortious actions
- Create legal presentations and memorandums for business development

U.S. Department of Commerce, Chief Counsel for International Commerce, Washington, D.C.
Law Clerk — August-November 2022
- Examined legal implication of recently enacted legislation on U.S. treaty obligations
- Explored and formed legal responses to international legal questions for White House
- Performed statutory interpretation of proposed bills and their impact on a federal agency's operation

U.S. District Judge Jane Boyle, **Northern District of Texas**, Dallas, Texas
Summer Judicial Intern — July-August 2022
- Drafted legal orders, including motions to dismiss and motions to add principal plaintiff to class action
- Conducted legal research involving case law in federal and U.S. state systems

MV Kini Law Firm, New Delhi, India
Summer Legal Intern — May-June 2022
- Investigated international trademark and commercial law in India, Britain, United States
- Prepared comparison reports on various countries' economic sectors for governmental policies
- Edited and revised commercial contracts, predominantly for airline third-party services

State Representative Tony Tinderholt, Arlington, Texas
District Intern — August 2017-June 2021
- Provided casework for over 200 constituents, requiring interagency cooperation
- Read and responded to over 1,200 constituent e-mails and over 300 phone calls

ADDITIONAL INFORMATION

2d degree blackbelt, Troy Dorsey's Karate • 4th place Jazz Piano & Honor's Classical Cyclical Contest • Volunteer Spanish interpreter, OpenArms Medica Clinic, Texas • Medical mission trip, Guatemala

ATHENA

Student Unofficial Transcript

Unofficial Transcript

Transcript Level

Law

Transcript Type

Unofficial Web

Student Information | Institution Credit | **Transcript Totals** | Course(s) in Progress

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Student Information

Name
Sandon X. Fernandes

Birth Date
20-OCT

Curriculum Information

Program : Juris Doctor

College
School of Law

Major and Department
Law, School of Law

Institution Credit

Term : Fall 2021

Academic Standing

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
JURI	4010	LW	Civil Procedure	A	4.000	16.00	
JURI	4030	LW	Contracts	A	4.000	16.00	
JURI	4071	LW	Legal Writing I	A-	3.000	11.10	
JURI	4072	LW	Legal Research I	A	1.000	4.00	
JURI	4120	LW	Torts	A	4.000	16.00	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	16.000	16.000	16.000	16.000	63.10	3.94
Cumulative	16.000	16.000	16.000	16.000	63.10	3.94

Term : Spring 2022

Academic Standing

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
JURI	4050	LW	Criminal Law	B+	3.000	9.90	
JURI	4081	LW	Legal Writing II	A-	2.000	7.40	
JURI	4090	LW	Property	A-	4.000	14.80	
JURI	4180	LW	Constitutional Law I	A	3.000	12.00	
JURI	4640	LW	Public International Law	A	3.000	12.00	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	15.000	15.000	15.000	15.000	56.10	3.74
Cumulative	31.000	31.000	31.000	31.000	119.20	3.84

Term : Fall 2022

Academic Standing

Good Standing

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
JURI	5972	LW	D.C. Semester in Practice Law	A	3.000	12.00	
JURI	5973S	LW	D.C. Externship	A	5.000	20.00	
JURI	5974S	LW	D.C. Externship Placement	S	5.000	0.00	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	13.000	13.000	13.000	8.000	32.00	4.00
Cumulative	44.000	44.000	44.000	39.000	151.20	3.87

Term : Spring 2023

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
JURI	4088	LW	Writing for Judicial Clerkship	A	2.000	8.00	
JURI	4190	LW	Constitutional Law II	A-	3.000	11.10	
JURI	4581	LW	Select Topics in Judicature	S	1.000	0.00	I
JURI	4581	LW	Select Topics in Judicature	S	1.000	0.00	I
JURI	4950	LW	Secured Transactions	A-	3.000	11.10	
JURI	5013	LW	Intl and Comp Law Journal	S	2.000	0.00	
JURI	5041	LW	International Advocacy Seminar	S	2.000	0.00	
JURI	5042	LW	Moot Court Competition	S	2.000	0.00	
JURI	5894	LW	Refugee and Asylum Law	A	2.000	8.00	

Term Totals	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term	18.000	18.000	18.000	10.000	38.20	3.82
Cumulative	62.000	62.000	62.000	49.000	189.40	3.86

Transcript Totals

Transcript Totals - (Law)	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution	62.000	62.000	62.000	49.000	189.40	3.86
Total Transfer	0.000	0.000	0.000	0.000	0.00	0.00
Overall	62.000	62.000	62.000	49.00	189.40	3.86

Course(s) in Progress

Term : Fall 2023

Subject	Course	Level	Title	Credit Hours
JURI	4210	LW	Corporations	3.000
JURI	4250	LW	Evidence	3.000
JURI	4300	LW	Law and Ethics	3.000
JURI	4340	LW	Antitrust Law	3.000

Subject	Course	Level	Title	Credit Hours
JURI	4425	LW	Foreign Affs Natl Security	3.000

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THE UNIVERSITY OF TEXAS AT ARLINGTON
OFFICE OF RECORDS
701 S NEDDERMAN DRIVE
ARLINGTON, TX 76019

TELEPHONE: 817-272-3372

Document Type: THIRD-PARTY SECURE PDF

Official Academic Transcript of:
SANDON XAVIER FERNANDES
Transcript Created: 12-Nov-2020

Intended Recipient:
SANDON FERNANDES
1920 SANTA ANNA DR
ARLINGTON, TX 76001-5611

E-Mail: sandon.fernandes@mavs.uta.edu

Requested by:
SANDON XAVIER FERNANDES
1920 SANTA ANNA DR
ARLINGTON, TX 76001-5611

E-Mail: sandon.fernandes@mavs.uta.edu

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THE UNIVERSITY OF TEXAS AT ARLINGTON

Official Transcript

Name: **Sandon Xavier Fernandes**
Student ID: **1001379631**

Send To: SANDON FERNANDES
1920 SANTA ANNA DR
ARLINGTON, TX 760015611

Institution Info: THE UNIVERSITY OF TEXAS AT ARLINGTON
Birthdate: 10/20/1998
Send To: SANDON FERNANDES
1920 SANTA ANNA DR
ARLINGTON, TX 760015611
Print Date: 11/12/2020
Reading: Exempt ACT EXEMPTION 01-SEP-2016
Math: Exempt ACT EXEMPTION 01-SEP-2016
Writing: Exempt ACT EXEMPTION 01-SEP-2016
TEC 51.907 Undergraduate Course Drop Counter - 1

Degrees Awarded

Degree: Bachelor of Arts
Confer Date: 2020-05-16
Degree Honors: Magna Cum Laude
Plan: History BA - Pre-Law Option
Plan: Bachelor of Arts in Spanish Translation and Interpreting

Degree: Undergraduate Certificate
Confer Date: 2020-05-16
Plan: Spanish Translation Certificate
Plan: Spanish Interpreting Certificate

Transfer Credits

Transfer Credit from Tarrant County College District*
Applied Toward Undergraduate

			Attempted	Earned	Points
Course Trans GPA:	0.000	Transfer Totals:	13.000	13.000	0.000

Test Credits

Test Credits Applied Toward Undergraduate
2017 Fall

Course		Description	Attempted	Earned	Grade	Points
ENGL	1301	RHETORIC AND COMPOSITION I	3.000	3.000	T	0.000
ENGL	2303	TOPICS IN LIT	3.000	3.000	T	0.000
ENVR	2301	INTRO TO ENVIRONMENTAL SCIENCE	3.000	3.000	T	0.000
HIST	1312	U.S. HISTORY SINCE 1865	3.000	3.000	T	0.000
HIST	2302	HIST OF CIVILIZATION	3.000	3.000	T	0.000
HIST	1311	U.S. HISTORY TO 1865	3.000	3.000	T	0.000
SPAN	1442	BEGINNING SPANISH II	4.000	4.000	T	0.000
SPAN	1441	BEGINNING SPANISH I	4.000	4.000	T	0.000
SPAN	2313	INTERMEDIATE SPANISH I	3.000	3.000	T	0.000
SPAN	3320	INTRO HISPANIC LIT & CULTURE	3.000	3.000	T	0.000
Test Trans GPA:	0.000	Transfer Totals:	32.000	32.000		0.000

Test Credits Applied Toward Undergraduate
2019 Sum

Course		Description	Attempted	Earned	Grade	Points
RUSS	1441	BEGINNING RUSSIAN I	4.000	4.000	T	0.000
Test Trans GPA:	0.000	Transfer Totals:	4.000	4.000		0.000

Beginning of Undergraduate Record

2017 Fall

Program: Undergraduate

Plan: History-University College Intended

Course		Description	Attempted	Earned	Grade	Points
ENGL	1302	RHETORIC AND COMPOSITION II	3.000	3.000	A	12.000
Req Designation:		Core - 010 Communication				
MATH	1426	CALCULUS I	4.000	4.000	A	16.000
Req Designation:		Core - 020 Mathematics				
MUSI	1300	MUSIC APPRECIATION	3.000	3.000	A	12.000
Req Designation:		Core - 050 Creative Arts				
POLS	2312	STATE & LOCAL GOVT	3.000	3.000	A	12.000
Req Designation:		Core - 070 Government/Political Science				
SPAN	2314	INTERMEDIATE SPANISH II	3.000	3.000	A	12.000
Req Designation:		Core - 040 Language, Philosophy & Culture				
UNIV	1131	ISSUES IN COLLEGE ADJUSTMENT	1.000	1.000	P	0.000

			Attempted	Earned	GPA Units	Points
Term GPA	4.000	Term Totals	17.000	17.000	16.000	64.000

Nichole Mancone Fisher, Ed.D
Registrar
Office of the Registrar

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THE UNIVERSITY OF TEXAS AT ARLINGTON

Official Transcript

Name: **Sandon Xavier Fernandes**
Student ID: **1001379631**

Cum GPA	4.000	Cum Totals	17.000	17.000	16.000	64.000

Term Honor: Freshman Distinction Roll

2018 Spr

Program: Undergraduate

Plan: History BA - Pre-Law Option Major
Plan: Bachelor of Arts in Spanish Translation and Interpreting Major
Plan: Spanish Translation Certificate Certificate
Plan: Spanish Interpreting Certificate Certificate

Course		Description	Attempted	Earned	Grade	Points
HIST	2301	HISTORY OF CIVILIZATION	3.000	3.000	A	12.000
HIST	4391	UNDERGRADUATE CONF COURSE	3.000	3.000	A	12.000
MATH	2425	CALCULUS II	0.000	0.000	W	0.000
PHYS	1443	GENERAL TECHNICAL PHYSICS I	4.000	4.000	A	16.000
Req Designation:		Core - 030 Life & Physical Sciences				
SPAN	3314	ADVANCED SPANISH GRAMMAR	3.000	3.000	A	12.000

			Attempted	Earned	GPA Units	Points
Term GPA	4.000	Term Totals	13.000	13.000	13.000	52.000
Cum GPA	4.000	Cum Totals	30.000	30.000	29.000	116.000

Term Honor: Freshman Distinction Roll

2018 Fall

Program: Undergraduate

Plan: History BA - Pre-Law Option Major
Plan: Bachelor of Arts in Spanish Translation and Interpreting Major
Plan: Spanish Translation Certificate Certificate
Plan: Spanish Interpreting Certificate Certificate

Course		Description	Attempted	Earned	Grade	Points
ANTH	3339	URBAN ANTHROPOLOGY	3.000	3.000	A	12.000
HIST	3300	INTRO TO HISTORICAL RESEARCH	3.000	3.000	A	12.000
POLS	3331	ISSUE CIVIL LIB	3.000	3.000	A	12.000
SPAN	3303	ADVANCED SPANISH CONVERSATION	3.000	3.000	A	12.000
SPAN	3315	COMPOSITION THROUGH LITERATURE	3.000	3.000	A	12.000
SPAN	3340	INTRODUCTION TO TRANSLATION	3.000	3.000	B	9.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.833	Term Totals	18.000	18.000	18.000	69.000
Cum GPA	3.936	Cum Totals	48.000	48.000	47.000	185.000

Term Honor: Honor Roll

2019 Spr

Program: Undergraduate

Plan: History BA - Pre-Law Option Major
Plan: Bachelor of Arts in Spanish Translation and Interpreting Major
Plan: Spanish Translation Certificate Certificate
Plan: Spanish Interpreting Certificate Certificate
Plan: Business Administration Minor Minor

Course		Description	Attempted	Earned	Grade	Points
BLAW	3310	LEGAL/ETHICAL BUS ENVIRONMENT	3.000	3.000	B	9.000
HIST	3307	HISTORY OF DISABILITY	3.000	3.000	A	12.000
HIST	3319	GREAT TRIALS	3.000	3.000	A	12.000
PHIL	2311	LOGIC	3.000	3.000	A	12.000
Req Designation:		Core 020 and 092 Mathematics & Component Area Opt				
SPAN	3341	INTRODUCTION TO INTERPRETING	3.000	3.000	A	12.000
SPAN	4341	BUSINESS AND LEGAL TRANSLATION	3.000	3.000	A	12.000
SPAN	4342	HEALTHCARE TRANSLATION	3.000	3.000	B	9.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.714	Term Totals	21.000	21.000	21.000	78.000
Cum GPA	3.868	Cum Totals	69.000	69.000	68.000	263.000

Term Honor: Honor Roll

Nichole Mancone Fisher, Ed.D
Registrar
Office of the Registrar

THE UNIVERSITY OF TEXAS AT ARLINGTON

Official Transcript

Name: **Sandon Xavier Fernandes**
Student ID: **1001379631**

2019 Fall

Program: Undergraduate

Plan: History BA - Pre-Law Option Major
Plan: Bachelor of Arts in Spanish Translation and Interpreting Major
Plan: Spanish Translation Certificate Certificate
Plan: Spanish Interpreting Certificate Certificate

Course		Description	Attempted	Earned	Grade	Points
BSTAT	3321	BUSINESS STATISTICS I	3.000	3.000	A	12.000
HIST	3391	MOOT COURT	3.000	3.000	A	12.000
MATH	3330	INTRO MATRICES/ LINEAR ALGEBRA	3.000	3.000	B	9.000
RUSS	1442	BEGINNING RUSSIAN II	4.000	4.000	A	16.000
SPAN	4343	HEALTHCARE INTERPRETING	3.000	3.000	A	12.000
SPAN	4344	INTERPRETING IN LEGAL SETTINGS	3.000	3.000	A	12.000

			Attempted	Earned	GPA Units	Points
Term GPA	3.842	Term Totals	19.000	19.000	19.000	73.000
Cum GPA	3.862	Cum Totals	88.000	88.000	87.000	336.000

Term Honor: Honor Roll

2020 Spr

Program: Undergraduate

Plan: History BA - Pre-Law Option Major
Plan: Bachelor of Arts in Spanish Translation and Interpreting Major
Plan: Spanish Translation Certificate Certificate
Plan: Spanish Interpreting Certificate Certificate

Course		Description	Attempted	Earned	Grade	Points
ECON	2306	PRINCIPLES OF MICROECONOMICS	3.000	3.000	A	12.000
Req Designation:		Core - 080 and 098 Social & Beh Sci & CompAreaOpt				
EXSA	1249	SCUBA DIVING	2.000	2.000	A	8.000
HIST	3311	AMER RVLUTN & CONSTITUTION	3.000	3.000	A	12.000
HIST	4306	INTERCULTURAL TRANSFERS	3.000	3.000	A	12.000
POLS	4332	US CON LAW	3.000	3.000	A	12.000
RUSS	2313	INTERMEDIATE RUSSIAN I	3.000	3.000	A	12.000
RUSS	2314	INTERMEDIATE RUSSIAN II	3.000	3.000	A	12.000
Req Designation:		Core - 040 and 094 Lang Phil Culture & CompAreaOpt				

			Attempted	Earned	GPA Units	Points
Term GPA	4.000	Term Totals	20.000	20.000	20.000	80.000
Cum GPA	3.888	Cum Totals	108.000	108.000	107.000	416.000

Term Honor: Honor Roll

Undergraduate Career Totals

			Attempted	Earned	GPA Units	Points
Cum GPA:	3.888	Cum Totals	108.000	108.000	107.000	416.000

End of Official Transcript

Nichole Mancone Fisher, Ed.D
Registrar
Office of the Registrar

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THE UNIVERSITY OF TEXAS AT ARLINGTON
Office of Admissions, Records and Registration
P.O. Box 19088
Arlington, Texas 76019
(817) 272-3372

TRANSCRIPT INFORMATION

Accreditation: UT Arlington is fully accredited by the Southern Association of Colleges and Schools Commission on Colleges. In addition, many academic departments and schools have received national accreditation from specific agencies.

Calendar: Semester system.

Grading Information System:

UTA-Issued Grade	Description	Per Semester Hour Grade Points
A	Excellent	4
B	Good	3
C	Fair	2
D	Passing	1
F	Failure	0
I	Incomplete	--
N	Not Valid	--
NF	Failure	0
P	Pass in a Pass/Fail Option	--
Q	Withdrawn – No Penalty	--
R	Research in Progress	--
T	Test Credit	--
W	Withdrawn	--
Z	No Credit	--
Blank	No Grade Reported	--

Prior to the Fall semester of 1972, The University of Texas at Arlington used a 3.0 grading system. Beginning with the Fall semester of 1972, however, the University converted to the 4.0 scale indicated above.

Repeat of Coursework: A student may repeat any course except as limited by individual colleges and schools, provided the student's most recently earned grade is below C. Coursework that is illegally repeated is indicated by Repeated: COURSE REPEAT, NOT INCLUDED IN GPA.

Grade Forgiveness Policy: Courses which have been forgiven under grade forgiveness have had the impact on GPA of a D or F earned forgiven and not included in the undergraduate cumulative GPA calculation. Forgiven grades will be included in the calculation of GPA for Latin Honors. GRADE FORGIVENESS and any changes to GPA will be noted on the transcript.

Grade Replacement Policy: Courses which have been repeated under grade replacement have had the impact on the undergraduate cumulative GPA calculation of the first grade earned replaced by that of the second grade earned. GRADE REPLACEMENT and any changes to GPA will be noted on the transcript.

Grade Exclusion Policy: Courses which have been excluded under grade exclusion have had the impact on GPA of the first D or F earned excluded from the undergraduate cumulative GPA calculation. Excluded grades will be included in the calculation of GPA for Latin Honors. GRADE EXCLUSION and any changes to GPA will be noted on the transcript.

Unreported Grades: Grades that are not reported to the Office of Admissions, Records and Registration during the grading period appear on the transcript as blank, and will remain blank until a permanent grade is assigned by the teaching faculty and department.

Incomplete Grades: Students unable to complete all assigned work in a class in the semester in which it was taken may, at the discretion of the instructor, receive an Incomplete (I) grade. Incomplete courses are indicated by a grade of I with no credit hours earned.

Course Identification: Courses at UT Arlington are designated by a combination of letters and four digits. The letters indicate the department, or area within a department, that offers the course. The first digit indicates the level in which the course is usually taken (freshman, sophomore, etc.). The second digit denotes the semester hour credit the course yields. The third and fourth digits distinguish the individual course.

Academic Standing: A student is eligible to continue or return unless an academic message to the contrary appears on the transcript. A student is in good academic standing unless a contradictory academic message indicating Warning, Probation, or Dismissal appears on the transcript.

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University Catalog: http://catalog.uta.edu/

Registrar's Website: https://www.uta.edu/records

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UNIVERSITY OF GEORGIA

School of Law
Office of the Dean
225 Herty Drive
Athens, Georgia 30602-6012
TEL 706-542-7140 | FAX 706-542-5283
borut@uga.edu

Peter B. "Bo" Rutledge
Dean and Talmadge Chair of Law

June 8, 2023

The Honorable Michael Brennan
United States Court of Appeals for the Seventh Circuit
United States Courthouse and Federal Building
518 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Re: Sandon Fernandes

Dear Judge Brennan:

Please accept this strong recommendation for Sandon Fernandes to serve as your judicial clerk. Sandon possesses many of the qualities seen in former students who successfully clerked for the federal judiciary.

My interactions with Sandon have offered a front-row seat to witness his research, writing and other skills. During his second year in law school, Sandon was part of an international arbitration moot court team that I coached. That year-long commitment required Sandon (along with his teammates) to draft two full-length memorials for an international arbitration and to engage in the art of cross-cultural advocacy.

In that work, Sandon demonstrated many of the skills that reflect skills needed in a successful clerk. First, Sandon can effectively research difficult questions in obscure area of law; the precise topic that Sandon researched was whether a drone constituted an aircraft under the Convention for the International Sale of Goods (a classic case of applying a historical legal text to modern-day technology). Sandon's research was impeccable. Second, Sandon writes well. He wrote persuasive legal arguments on both sides of the issue drawing on an array of sources, including case law, arbitral awards, legal commentary and other sources. Third, Sandon communicates well. After briefing his section of the case, Sandon learned the entire "merits" part (including a section that he did not argue); he was, in my opinion, the most effective member of his team, an accolade reflected partly in the team's winning third place at the Miami pre-moot competition. Fourth, and perhaps most importantly, Sandon is extremely amicable. The program required Sandon to work intensively with his three teammates over a seven-month period; he invariably was a leavening presence whether in preparations, moots or downtimes.

All of those skills map onto the needs of a federal judge's chambers – thorough research, lucid writing, effective communication and amicability. Temperamentally, he reminds me of some of my best

former-students-turned-clerks: superlative academic record, linguistic fluency, experience with a district judge, and eclectic interests (how many folks do we know who are second-degree blackbelts and concert pianists!) will make him a force in chambers.

Mindful that you receive far more applications from prospective clerks than you can possibly interview (much less hire), I am confident that Sandon is worth the investment of your scarce time. Thank you, in advance, for your consideration of this letter and his application. If you have any questions, please call (706 542 7140).

Sincerely,

Peter B. Rutledge
Dean and Talmadge Chair of Law

UNIVERSITY OF GEORGIA

School of Law
225 Herty Drive
Athens, Georgia 30602-6012
TEL 706-542-6809 | CELL 770-722-1947
anna.howard@uga.edu

Anna W. Howard
Legal Writing Instructor
Judicial Liaison

June 9, 2023

The Honorable Michael Brennan
United States Court of Appeals for the Seventh Circuit
United States Courthouse and Federal Building
518 East Wisconsin Avenue, Room 618
Milwaukee, WI 53202

Dear Judge Brennan,

I write to sincerely recommend Sandon Fernandes for a clerkship in your chambers. Ever since I have known him, he has expressed an interest in clerking, and I have no doubt that he will do his absolute best for you.

Sandon has sought out experiences to make him the best possible clerk. Sandon has put in the work to understand what a clerkship requires, and he knows how to do the job. Sandon took my Writing for Judicial Clerkships course, where he learned how to draft jury instructions, verdict forms, and appellate opinions, among others. Sandon was always incredibly attentive, and he always asked questions that indicated he was thinking deeply about how best to do justice. Through my course, he also interacted with judges and clerks, and he was exposed to what a state or federal clerkship would require (whether at the trial or appellate courts).

Sandon has also put those skills to work. Last summer he served as an intern with the Hon. Jane Boyle, United States District Judge for the Northern District of Texas. In that role, Sandon received on-the-ground clerkship training, drafting legal orders and conducting legal research. Sandon has made every effort to understand what a clerkship demands, and he has gained the necessary skills to meet your needs.

Sandon has honed his legal research and writing skills. Sandon takes every assignment seriously, and he always has appropriate questions. For example, in my Writing for Judicial Clerkships course, Sandon was assigned an active United States Supreme Court petition to resolve. He was provided the briefs, the Joint Appendix, and the oral argument, and he was tasked with drafting a proposed opinion. Sandon did an excellent job of separating the wheat from the chaff—figuring out which issues were salient to resolving the case and which were ultimately irrelevant. As someone who has

supervised many a young law clerk, I find this instinct incredibly important. I also require my students to meet with me after research and before drafting (akin to what I did with my judges), and Sandon was incredibly prepared. He seized on the right cases, and his ability to orally discuss the problem with me was excellent. He also understood what it meant to write with a decisional tone (which I also find can be tough for law students). He persuasively commanded the law without waffling.

Sandon is an Executive Articles Editor for the *Journal of Intellectual Property*, where he will only further hone his writing craft. Sandon recognizes that legal writing is critical, and he has done the work to make sure he has gained those skills.

Sandon has an excellent legal mind. This past year, Sandon was involved in the Vis moot court team, one of our most time-consuming moot court programs that starts in October and ends in April. That team must produce two briefs and then goes to Vienna, Austria to compete. As a former member of that team (now *many* years ago), I can say that Sandon is an excellent advocate. When I benched him, he was quick on his feet and dealt with my hypotheticals beautifully—knowing when to concede and when to stay firm. Sandon will use this quick thinking to help you resolve any quandaries in your chambers, I am sure of it.

Sandon is someone you want to eat lunch with everyday. Sandon has what one of my judges called "personality plus." He is polite, kind, and easy to talk to about cases or just life. He strikes the right balance of being social without being overbearing. He is easy going and unflappable. You will love having him around chambers.

In short, Sandon will make an excellent clerk. If you have any questions for me, please do not hesitate to contact me on my cell phone (770-722-1947).

Sincerely,

Anna W. Howard

Anna W. Howard
Legal Writing Instructor

Sandon Fernandes

1907 S. Milledge Ave. Apt. H9• Athens, GA 30605 • sandon.fernandes@uga.edu • (682) 521-2122

WRITING SAMPLE

The attached writing sample is a United States Supreme Court model opinion from a class titled Writing for Judicial Clerkships. The opinion is based on the case *Dubin v. United States* and was created prior to the Supreme Court's decision.

This sample contains the entirety of the opinion without any edits.

SUPREME COURT OF THE UNITED STATES

No. 22-10

DAVID DUBIN, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[April 24, 2023]

PER CURIAM.

A federal criminal statute imposes a mandatory two-year prison term upon individuals convicted of certain crimes if during or in relation to the commission of the crime, the offender "knowingly . . . uses, without lawful authority, a means of identification of another person." 18 U.S.C. § 1028A(a)(1). We granted certiorari to decide whether a defendant violates Section 1028A when he lists a patient's name and Medicaid ID number on a reimbursement form that resulted in Medicaid fraud.

Petitioner David Dubin claims that merely listing a patient's identifiable information should not trigger Section 1028A when the fraud is based on misrepresenting the number of hours worked and the qualifications of the person performing services—not the patient. The Government advocates for a broader nexus between the use of another individual's identifiable information and the fraud offense, arguing that the use of the patient's name and ID number was sufficiently related to the offense for the purpose of Section 1028A. We hold that the use of another individual's information must be integral to the predicate fraud in order to convict under Section 1028A. Here, Dubin's use of a patient's name and Medicaid ID number was not.

I.
Factual Background

Dubin worked as a managing partner at his father's psychological service company (PARTS), which provided mental health services to young people in Texas. The Hector Garza Center (the Center) hired PARTS to perform psychological evaluations for its patients. J.A. 21. PARTS was enrolled as a provider in Texas's Medicaid program and would determine whether a patient at the Center was eligible for Medicaid. J.A. 21. If a patient from the Center was eligible, PARTS would file a Medicaid reimbursement claim for the treatment it performed. J.A. 21.

Under Medicaid, psychological testing and clinical interviews are separate services with distinct billing codes, and Medicaid reimburses services performed by a licensed psychologist at different rates than services performed by a psychological associate. J.A. 17–20, 22.

In April 2013, the Center asked PARTS to conduct psychological evaluations on Patient L. J.A. 33. PARTS sent a psychological associate to perform the evaluations. J.A. 33. The associate spent two and a half hours with Patient L and completed psychological testing. However, the associate did not complete the clinical interview after Dubin instructed him not to continue. J.A. 17–18.

Medicaid would not have covered the costs of the April 2013 visit. J.A. 33. Texas state law precludes reimbursement of a patient's psychological evaluations if he/she had already received eight hours of psychological evaluations within a twelve-month period. J.A. 17–18, 20, 27. Patient L had already received eight hours of psychological evaluations

by the April 2013 visit; his next Medicaid period did not restart until May 2013. J.A. 17–18, 20, 27.

Dubin told the associate to wait until Patient L's Medicaid period restarted before conducting the clinical interview and finishing Patient L's report. J.A. 19. But Patient L was discharged before the period restarted. J.A. 20, 26. The associate never completed the interview, and the Center told PARTS that it no longer needed Patient L's report. J.A. 18–22, 44–46.

Dubin instructed a PARTS employee to bill Medicaid on May 30, 2013, for Patient L's treatment. J.A. 22. The reimbursement form stated that on May 30, 2013, a licensed psychologist performed psychological tests on Patient L for three hours—in an attempt to have Medicaid cover the April visit. J.A. 22–23, 49. The claim included Patient L's name and Medicaid ID number, as required for Medicaid reimbursement claims. J.A. 48.

The Government charged and convicted Dubin of healthcare fraud under 18 U.S.C. §§ 1347, 1349 for misrepresenting the date in which PARTS provided the psychological testing, the hours worked, and the qualifications of the person providing service. The Government additionally charged and convicted Dubin under 18 U.S.C. § 1028A—the statute currently in dispute—for using Patient L's personal information on the form.

Dubin motioned for acquittal on the Section 1028A count. J.A. 37–39. The district court denied Dubin's motion and sentenced him to two years imprisonment, as mandated by Section 1028A, to run consecutively with his one-year sentence for Medicaid fraud. J.A. 39–41. Dubin then appealed to the Fifth Circuit.

The Fifth Circuit affirmed the Section 1028A conviction, holding that Dubin "use[d] [a] means of identification when he took the affirmative acts in the health-care fraud, such as his submission for reimbursement of Patient L's incomplete testing . . . without lawful authority." United States v. Dubin, 982 F.3d 318, 327 (5th Cir. 2020), vacated, 989 F.3d 1068 (5th Cir. 2021), and argued, 27 F.4th 1021 (5th Cir. 2022) (en banc) (adopting the reasoning held in the panel opinion). Dubin appealed again.

II.
Legal Standard

Section 1028A requires an additional two years of imprisonment if a defendant "during and in relation to [certain offenses] knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person." 18 U.S.C. §§ 1028A(a)(1)–(b). Subsection (c) lists eleven groups of offenses that could trigger 18 U.S.C. § 1028A(a)(1). See id. § 1028A(c). Medicaid fraud is included in the list of triggering offenses. See id.

To convict a defendant under Section 1028A(a)(1), the prosecution must demonstrate that the defendant "knowingly transfer[ed], possesse[d], or use[d]" the identification of another person. Additionally, it must prove that the transfer, possession, or use was "during and in relation to" the predicate crime. Finally, the prosecution must prove that the transfer, possession, or use was "without lawful authority."

III.
Analysis

Dubin first posits that the textual reading of Section 1028A(a)(1) requires that the "use" of another person's identification be the result of identity theft. Pet'r Br. 29–30.

Additionally, he claims that any use must "further or facilitate" the commission of the predicate offense. Pet'r Br. 21. Expanding upon this interpretation, he states that a predicate offense "must arise from the inclusion of a particular person's identity" in order to violate Section 1028A(a)(1)—not from a separate misrepresentation on the form. Pet'r. Br. 21. Thus, according to Dubin, the individual's name must play an integral role in carrying out the predicate offense—as opposed to the "but for" nexus applied by the Fifth Circuit. Pet'r. Br. 21. Lastly, Dubin contends that he had lawful authority to employ Patient L's information on a reimbursement form even if it contained other misrepresentations. Pet'r. Br. 25–27.

The Government argues that the plain language of the statute indicates that the placement of Patient L's name and Medicaid ID number on the form violates Section 1028A because the fraud would not have occurred without including the identifiable information. Resp't Br. 7. Furthermore, the Government asserts that Dubin acted "without lawful authority" when employing Patient L's information on the form since Dubin had no authority to use the information in a fraudulent manner. Resp't Br. 10–11.

A. Did Dubin "use" Patient L's information within the meaning of 18 U.S.C. § 1028A(a)(1)?

The ordinary definition of the word "use" has not changed over the last one hundred years. Smith v. United States, 508 U.S. 223, 229 (1993) (citing Astor v. Merritt, 111 U.S. 202, 213 (1884)). We have previously held that term "use" is defined as "to convert to one's service; to employ; to avail oneself of; to utilize; to carry out a purpose or action by means of." Id. at 228–29 (citing use, Black's Law Dictionary (6th ed. 1990)); see also use, Black's Law Dictionary (8th ed. 2004). The word "use" "sweeps broadly, punishing any use . . . so long as the use is 'during and in relation to'" the predicate offense. See

Smith, 508 U.S. at 230 (quoting United States v. Long, 905 F.2d 1572, 1576–77 (D.C. Cir.), cert. denied, 498 U.S. 948 (1990)). In this case, the word "uses" should be interpreted in context with the terms "transfers" and "possesses." See id. at 229–30; Bailey v. United States, 516 U.S. 125, 143–46 (1995).

Both parties agree that in submitting the fraudulent Medicaid form, Dubin invoked Patient L's name and Medicaid ID number. Dubin certainly had possession of Patient L's information. He then placed Patient L's information on the reimbursement form and transferred it, with fraudulent information, to Medicaid. The placing of Patient L's information on the form and transferring it to Medicaid fits within the natural interpretation of the term "use" under Section 1028A(a)(1). See Smith, 508 U.S. at 228–30; Bailey, U.S. 516 U.S. at 144–45.

B. Is Dubin's "use" of Patient L's information "in relation to" the Medicaid fraud?

When interpreting a criminal statute, we "traditionally exercise[] restraint . . . both out of deference to the prerogatives of Congress and out of concern that a fair warning should be given . . . of what the law intends to do if a certain line is passed." United States v. Aguilar, 515 U.S. 593, 600 (1995) (internal quotations omitted) (first citing Dowling v. United States, 473 U.S. 207 (1985); then quoting McBoyle v. United States, 283 U.S. 25, 27 (1931)).

The ordinary meaning of the term "in relation to" is defined as "to have bearing or concern; to pertain; refer; to bring into association with or connection with." See Morales v. TWA, 504 U.S. 374, 383 (1992) (internal quotations omitted) (quoting relating to, Black's Law Dictionary (5th ed. 1979)); see also relating to, Black's Law Dictionary (8th ed. 2004). But the term provides no precise contour of as to the strength of the

relationship needed to prove that two events are "in relation to" one another. See Smith 508 U.S. at 238. When deciding between multiple interpretations of a criminal statute, we require Congress to speak in a "clear and definite" manner prior to choosing a "harsher alternative." United States v. Bass 404 U.S. 336, 347–48 (1971) (quoting United States v. Universal C. I. T. Credit Corp., 344 U.S. 218, 221–22 (1952)).

1. The rule of lenity supports interpreting "in relation to" as requiring a narrow nexus between the "use" of another person's identity and the predicate offense.

The nexus required for determining whether two events are "in relation to" one another "should be resolved in favor of lenity." See Abramski, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting) (citing Skilling v. United States, 561 U.S. 358, 410 (2010)). Creating a broad nexus has the potential of implicating numerous defendants under Section 1028A for instances where the use of another individual's information is superfluous to the predicate fraud.

In practice, we held that the term "in relation to" limits the scope of uses to those that "must facilitate the commission of the crime." Smith, 508 U.S. at 238. For purposes of Section 1028A(a)(1), the rule of lenity advises that the "in relation to" nexus should be limited to instances where the use of another person's identification is an "integral" part to the predicate fraud. See generally id. (holding that when a gun is an "integral part" of a drug trafficking crime, the Court need not bother with the "the precise contours" of the term "in relation to" (quoting United States v. Phelps, 895 F.2d 1281, 1283 (9th Cir. 1990))). The misrepresentation of the individual must be integral to the fraud. The fraud cannot be based solely on *how*, *when*, or *why* services were provided.

The Sixth Circuit adopted this interpretation of Section 1028A and demonstrated its functionality. In United States v. Medlock, 792 F.3d 700 (6th Cir. 2015), the court found that owners of a non-emergency ambulance company did not violate Section 1028A for fraudulently billing Medicare. The owners claimed that they transported patients by stretcher in single patient ambulance rides when in fact passengers were able to walk (or be transported by wheelchair). Id. at 704. On numerous occasions, the company carried two patients in a single ambulance. Id. The court found that Section 1028A did not apply because the owners "misrepresented *how* and *why* the [patients] were transported, but they did not use those [patients'] identities to do so." Id. at 707. We agree with the Sixth Circuit's interpretation of Section 1028A. See id.; see also United States v. Michael, 882 F.3d 624, 628–29 (6th Cir. 2018).

Here, Dubin did not use Patient L's name "in relation to" the Medicaid fraud. The Government argues that Dubin's use of Patient L's identification "facilitate[d] or further[ed]" his Medicaid fraud because the fraud would not have occurred without placing the information on the form. However, Dubin's fraudulent acts are not based on a misrepresentation of Patient L's identity. Patient L received the services listed in the fraudulent reimbursement form. PARTS only billed for psychological testing; it did not bill for a clinical interview. The fraud's integral components concerned the date Patient L received services and the qualifications of the person providing care. Had the date of service been correctly stated on the reimbursement form, along with the correct number of billed hours and correct practitioner classification, there would be no fraud. The relationship between Patient L's identifying information on the form and the material

nature of the fraud is not strong enough to conclude that the use of Patient L's information is "in relation to" Dubin's fraudulent actions.

The Government's interpretation would result in Section 1028A convictions for the smallest of fraud cases which include the name of another individual. Take for instance a hypothetical physician who performs a $300 operation on a patient and later bills Medicaid $400, listing the patient's name on the form. The fraud is completely contingent on the difference in price. Following the Government's interpretation, the hypothetical physician would have no "fair warning" that the mere placement of the patient's name would itself implicate a separate offense that imposes two-years of mandatory incarceration. Under these circumstances, almost all healthcare fraud cases would necessarily implicate Section 1028A. Contrast the previous hypothetical with a physician who bills Medicaid using a non-patient's name on the form. In this scenario, a stronger claim under Section 1028A exists since the use of the non-patient's name is itself fraudulent. Similarly, imagine a company which forged a doctor's signature in a claim submission. The use of the doctor's identifiable information is itself illegitimate.

The Government observes that we did not invoke the rule of lenity when interpreting a statute banning the possession of firearms by anyone convicted of "a misdemeanor crime of domestic violence." United States v. Castleman, 572 U.S. 157 (2014); see Resp't Br. 36. In Castleman, the statute in question defined "domestic violence" as "an offense that . . . has an element, the use or attempted use of physical force." Id. at 161 (citing 18 U.S.C. § 922(g)(9)). We did not need to invoke the rule of lenity because we resolved the ambiguity surrounding the term "physical force" by invoking definition of "physical force" in a common law battery offense. In this case, we have no

other means to resolve the ambiguity in the term "in relation to." See Smith 508 U.S. at 238.

The Government further claims that Smith, Dean v. United States, 556 U.S. 568 (2019), and Muscarello v. United States, 524 U.S. 125 (1998), indicate that the term "in relation to" must be read expansively. See Resp't Br. 11. In those cases, we held that when a person is using or carrying a firearm in relation to a crime of violence or drug offense, "the firearm must have some purpose or effect with respect to the drug trafficking crime." Smith¸573 U.S. at 238; see also Dean 556 U.S. at 573; Muscarello 524 U.S. 138–39 (holding that a person possessing a firearm in a locked glove compartment of a car "uses or carries a firearm . . . during and in relation to" a drug trafficking offense).

Our interpretation of "in relation to" under Section 1028A does not place us at odds with our previous decisions. Establishing a nexus between the use of a weapon in the context of a drug trafficking or violent offenses is far easier than determining the nexus between a series of actions and a fraud offense. In most cases, the mere possession of a weapon plays an integral role in how parties interact with each other during a drug trafficking scheme and escalates violent confrontations. The same nexus cannot be applied in the context of fraud—where misrepresentations can be embedded within an otherwise accurate statement. An accurate statement cannot be "integral" to a fraud claim simply because it is surrounded by misrepresentations.

The Government believes that Section 1028A should apply in Dubin's case because Congress enacted the statute to address the kinds of harm that Patient L suffered—being deprived of three hours of psychological evaluations for the next Medicaid period. Resp't Br. 27–28. Yet the district court had the power consider any harm to Patient L when

imposing a sentence under Congress's sentencing guidelines. In line with our interpretation of Section 1028A, the additional two years of imprisonment should be applied in instances where a defendant's use of another's identification was integral to the predicate crime—a situation where actual harm to the individual is more prevalent. Here, there is no evidence that Patient L even knew Dubin used his information on the reimbursement form.

2. Interpreting "in relation to" with a narrow nexus under Section 1028A(a)(1) prevents a federalism issue when interpreting 18 U.S.C. § 1028(a)(7).

Our interpretation of Section 1028A also prevents an inconsistent reading between Section 1028A and 18 U.S.C. § 1028(a)(7). Section 1028 states that when a defendant "knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person . . . *in connection with*, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law," the defendant is subject to "imprisonment for not more than 15 years." 18 U.S.C. §§ 1028(a)(7), (b) (emphasis added). The language between Section 1028A(a)(1) and Section 1028(a)(7) are related. The terms "in relation to" and "in connection with" carry the same meaning. See generally Morales, 504 U.S. at 383 (the definition of "in relation to" includes "to bring into association with or *connection with*." (emphasis added) (internal quotations omitted) (quoting relating to, Black's Law Dictionary (5th ed. 1979))).

If we were to adopt the Government's interpretation of Section 1028A, we would necessarily be interpreting Section 1028(a)(7) in the same manner. See United States v. Davis, 139 S. Ct. 2319, 2329 (2019). Without requiring the "use" of another person's identification to be integral to a predicate offense under Section 1028(a)(7), an

innumerous amount of state offenses would carry with it an additional federal violation. For instance, if a restaurant told a patron that it serves fresh salmon, but the salmon is in fact frozen, and the restaurant charges the patron's credit card for fresh salmon, the restaurant would be subject to Section 1028(a)(7) because the fraudulent act involved using the patron's identifiable information.

This cannot be the correct interpretation of Section 1028(a)(7) for "unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the federal-state balance in the prosecution of crimes." Cleveland v. United States, 531 U.S. 12, 25 (2000) (citation omitted). A broad nexus in Section 1028(a)(7) would create serious federalism issues where federal courts would essentially have unfettered access to hear state claims. Since the nexus requirement in Section 1028A and Section 1028(a)(7) are construed in the same manner, we interpret Section 1028A in a way that which would not raise serious concerns when construing similar language in Section 1028(a)(7).[1] See generally, Jones v. United States, 529 U.S. 848, 857 (2000) ("[W]here a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter." (internal quotations omitted) (quoting United States ex rel. Attorney Gen. v. Delaware & Hudson Co., 216 U.S. 366, 408 (1909))).

C. Did Dubin act with lawful authority?

Dubin additionally cannot be convicted under Section 1028A because he had lawful authority to use Patient L's information.

[1] Although we are analyzing the term "in connection with" in 18 U.S.C. § 1028(a)(7), we are not making any conclusions about the proper application of the statute or its constitutionality.

The text of the statute supports this view. To trigger Section 1028A(a)(1), the "use" of another individual's identification must be "during and in relation to" a predicate felony, and the "use" of another individual's identification must be "without lawful authority." Since all predicate felonies are conducted "without lawful authority," Congress intended for the act of using the identification "without lawful authority" to be a distinct action from the predicate offense. See generally United States v. Taylor, 142 S. Ct. 2015, 2024 (2022) ("[W]e do not lightly assume Congress adopts two separate clauses in the same law to perform the same work." (citing Mackey v. Lanier Collection Agency & Services, Inc., 486 U.S. 825, 839, n. 14 (1998))).

The Government cannot claim that, because Dubin used Patient L's name while committing fraud, Dubin's use of Patient L's name was "without lawful authority." Otherwise, the predicate fraud would always serve as the basis for proving that a defendant acted "without lawful authority" under Section 1028A. Every infraction under Section 1028A(c), regardless of how minor, would result in a mandatory incarceration of an additional two years on top of the original offense. This circular reasoning is logically incoherent.

The Government suggests that Section 1028A would not apply to a defendant who writes someone's name on an envelope in the course of committing mail fraud because there is an implicit permission to use someone's name on an envelope. Resp't Br. 31–32. But if we were to adopt the Government's interpretation of "without lawful authority," the mere fact that the contents inside the envelope were fraudulent would be the entire basis to show that the sender used the recipient's name unlawfully. It would subject the sender

to an additional two-years imprisonment on top of the sentencing for the mail fraud offense.

The Government additionally argues that Dubin had no authority to use Patient L's name on a fraudulent form for "fictitious services after Patient L was no longer at the facility." Resp't Br. 14–16. However, the reimbursement form only charged Medicaid for psychological tests—services actually performed on Patient L. Although PARTS misrepresented certain information on the form, it had the capacity to use Patient L's identifiable information when charging Medicaid for psychological tests it performed.

We thus conclude that the use of another person's identification under Section 1028A(a)(1) cannot be deemed "without lawful authorization" solely based on the predicate offense being unlawful. The Government has proffered no evidence to show that Dubin used Patient L's information "without lawful authority." We therefore find that Dubin had lawful authorization to use Patient L's identification information when submitting a Medicaid reimbursement form for the kinds of services that Dubin's business provided to Patient L.

For the forgoing reasons we find that Dubin's actions did not violate Section 1028A. The judgment of the Court of Appeals, accordingly, is reversed.

It is so ordered.

Sandon Fernandes
1907 S. Milledge Ave. Apt. H9 • Athens, GA 30605 • sandon.fernandes@uga.edu • (682) 521-2122

WRITING SAMPLE

The attached writing sample is my appellate brief from my first-year legal writing class. Due to the length of the original brief, the Table of Contents and Table of Authorities are omitted. Minor wordsmithing edits were made to the brief after feedback from my writing instructor.

For the purposes of the assignment, I argued on behalf of the Petitioner/Plaintiff—an insured elderly widow. The case concerns an insurance company, acting as the Respondent/Defendant, attempting to avoid indemnifying Petitioner. The insurance policy includes an exclusionary policy that prohibits the insurance company from covering intentional actions.

STATUTES INVOLVED

There are no statutes involved in the resolution of this case.

STANDARD OF REVIEW

"This Court reviews an award of summary judgment *de novo*, viewing of the case in a light most favorable to the non-moving party and resolving any doubt in favor of the nonmoving party." Ashford v. Betleyoun, 617 Ben. 93, 93 (2016).

QUESTIONS PRESENTED

I. A. Benham law invokes an exclusionary clause only if the insured intended or expected to cause an injury. An elderly widow, who believed that a derringer could only hit an object ten or fifteen feet away, fired an inaccurate, short-range derringer in the general direction of a rapidly moving individual approximately fifty feet away to warn her not to come closer. Should summary judgment be reversed because a question of fact exists as to whether the widow intended or expected to cause injury?

B. Benham law invokes an exclusionary clause only if the insured intended or expected to cause an injury. An individual does not willfully intend to commit an act that results in injury when she must act in self-defense to protect herself from an imminent threat. Should this Court allow individuals to be denied coverage when they unwilfully have to engage in self-defense due to circumstance outside their control?

II. Benham law allows for self-defense when an individual believes that her safety was threatened. A strong, young neighbor, who is an experienced shooter, previously

threatened, and later charged at, an elderly widow while possessing a loaded 9mm handgun. Did the widow reasonably perceive an imminent threat?

STATEMENT OF FACTS

Plaintiff, Specialty Insurance Associates Inc. (SIA), seeks a declaratory judgment against Defendant, Ms. Lilian Dunn, that would prevent SIA from indemnifying Ms. Dunn for an altercation between her and her neighbor, Ms. Emory Weston, which resulted in Weston being injured. (R. 2). Dunn's insurance policy has an exclusionary clause that prevents indemnification for "[a]ny damages . . . intended or expected by the insured." (R. 3). On June 18, 2020, Weston, charged towards Ms. Dunn while possessing a loaded 9mm handgun. (R. 17, 24–25). Fearing a physical attack, Dunn fired an old, inaccurate derringer in the general direction of Weston from approximately fifty feet away, injuring Weston. (R. 25, 27).

Weston and Dunn had known each other two years prior to the accident. (R.14, 20). Weston and Ms. Dunn are neighbors, and during the intervening two-year period, there were several instances in which Weston and Ms. Dunn had verbal altercations. Weston called Ms. Dunn a "problem" and threatened her, expressing profane warnings such as "you'd better get out and stay out or I'll blankety-blank make sure you do." (R. 10). Weston threatened Ms. Dunn because Dunn's dog Snickerdoodles occasionally played in Weston's unfenced backyard. (R. 15, 17).

Weston frequently carries a handgun and possessed one when she charged at Ms. Dunn. (R. 15, 21, 24). Weston is an active, competitive shooter and frequently shoots targets in her backyard. (R. 16, 21). She has even shot at targets with pictures of dogs that appear similar to Dunn's and another neighbor's—whose dog also played in Weston's backyard but later

mysteriously disappeared—because she claimed, "those stupid dogs just made living [in her home] impossible." (R. 20–21).

On the night of the accident, Snickerdoodles was playing in Weston's yard when Weston chased him to Dunn's house; Weston then yelled at Ms. Dunn stating that she "wasn't going to put up with" Ms. Dunn and her "blankety-blank mutt anymore." (R. 16–17, 22). Ms. Dunn, fearful of Weston, decided to bring her late husband's derringer when she went to retrieve Snickerdoodles. (R. 17). She did not check to see if the derringer was loaded. Id. Dunn's husband once told her that the derringer could not hit anything more than ten to fifteen feet away and to wait until a threat was a car length away before firing. (R. 18). When Dunn met with Weston to retrieve Snickerdoodles, Dunn explained that Snickerdoodles meant no harm to anyone. Id. Weston then slapped Ms. Dunn's hand. (R. 17). As Weston walked away, she continued speaking profanities towards Ms. Dunn; at which point, Dunn told Weston that Weston would not get away with ever hurting her dog. Weston then charged towards Ms. Dunn while possessing a loaded 9mm handgun. (R. 17, 22). Ms. Dunn revealed her derringer while under a streetlamp to deter Weston from harming her, but Weston continued charging. (R. 18, 25). Fearing Weston's physical threat, Ms. Dunn attempted to deter Weston by firing the derringer in the general direction of Weston, without aiming for her, from approximately fifty feet away, expecting Weston to be far enough away to avoid hitting her. (R. 5, 18, 25–26). Dunn immediately ran into the house and called for an ambulance after discovering Weston was actually struck. (R. 18). At the time of the accident Ms. Dunn was sixty-nine and Weston, thirty-three. (R. 13, 20).

Detective Roberts, an expert marksman, examined Dunn's derringer and stated that the derringer is extremely inaccurate if a target is more than a few feet away. (R. 25). He further stated

it would be difficult for someone of his expertise to hit a target forty to fifty feet away using the derringer and found it surprising that Weston was actually struck at such a distance. (R. 25–26).

On November 26, 2020, Plaintiff, Ms. Dunn's insurance company, filed for declaratory judgment to prevent covering Dunn for the accident. (R. 2). On January 14, 2022, the trial court granted summary judgment for the Plaintiff. (R. 37–38). Defendant timely appealed the trial court's granting of summary judgment on January 27, 2022. (R. 39).

SUMMARY OF ARGUMENT

The trial court improperly granted summary judgment because Ms. Dunn did not intend or expect to cause injury to Weston. This Court has held that in order to apply an exclusionary clause like Dunn's, the insured must both intend the act in dispute *and* intend or expect to cause injury. Dunn did not intend or expect to inflict injury when she fired an old, inaccurate derringer in the general direction of Weston, approximately fifty feet away. Moreover, plaintiff is not entitled to summary judgment because an action in self-defense does not have the requisite intent needed to fall under the exclusionary clause.

Ms. Dunn did not intend to injure Weston when she fired the derringer. Ms. Dunn stated that she hoped simply revealing the derringer would be enough to stop Weston from charging at her. Ms. Dunn did not believe a bullet from a small gun could reach Weston, and she had no formal training with the derringer. The detective on-scene thought it highly improbable that Dunn's firing of the derringer from fifty feet could hit a rapidly moving target. Dunn's insurance policy states that it does not cover damages "intended or expected *by the insured*," and it is evident that Dunn did not intend to injure Weston nor did she expect that by firing the inaccurate derringer Weston would be hit.

Furthermore, self-defense must be an exception to an intent/expectation exclusionary clause because a self-defense action is not willful conduct. Insurance is meant to protect individuals from unintended situations, and prohibiting insurance coverage for self-defense actions would punish individuals who faced no alternative but to defend themselves. If this Court denied Dunn's indemnification under self-defense, this Court would punish victims subjected to an event outside their control, defeating the entire purpose of insurance.

Dunn reasonably used self-defense to protect herself from an armed threat charging towards her following an intense verbal and physical altercation. Because there exists a discrepancy in age, size, and firearm experience between Weston and Ms. Dunn, because Weston made previous threats towards Ms. Dunn, and because Weston charged towards Ms. Dunn while carrying a loaded weapon after a physical confrontation, Ms. Dunn's firing of a derringer in the direction of Weston was a reasonable self-defense action that withstands plaintiff's motion for summary judgment. Dunn reasonably believed there was an imminent threat to her safety when Weston charged at her with a loaded 9mm handgun. Weston's previous threats and aggressive actions towards Dunn provided further evidence that Ms. Dunn reasonably concluded Weston's physical actions posed an imminent threat on the night of the accident.

ARGUMENT

I. The trial court erred in granting summary judgment for the plaintiff because the trial court incorrectly applied this Court's approach of interpreting insurance exclusionary clauses and failed to grant an exception for self-defense.

Plaintiff is not entitled to summary judgment because a material fact exists as to whether Ms. Dunn intended to injure Weston. Dunn's insurance policy states that the "insurer will not indemnify insured for: (1) Any damages, whether for personal injury or for property damage, that

were intended or expected by insured." In order for these kinds of insurance exclusionary clauses to apply "it must be established that the insured intended the act [in dispute] *and* also intended or expected that injury would result." Evans v. Farmers Mutual Insurance Co., 439 Ben. 49, 53 (2001). Ms. Dunn did not intend or expect to inflict injury when she fired an inaccurate derringer in the general direction of Weston from approximately fifty feet away. Moreover, self-defense actions do not have the requisite intent needed to fall under the exclusionary clause.

A. Because Ms. Dunn did not intend or expect to cause injury to Weston, the exclusionary provision does not apply to the accident, and the insurance must indemnify her.

Plaintiff's claim, that Dunn's actions are excluded from her policy because she intentionally fired a derringer, is inconsistent with this Court's ruling in Evans because Ms. Dunn did not intend or expect to cause injury. In Evans, a wife intentionally burned cash, originally in a safety-deposit box, that she thought belonged to her husband when in reality, the bank made an error, and the box and its contents belonged to a third party. Id. at 49–52. The wife requested coverage from her insurance company, and the insurance company sought a declaration to prevent indemnification through a provision that excluded damages "expected or intended by the insured person." Id. at 52. This Court set a precedent that exclusionary provisions apply only if the insured intended or expected cause injury. Id. at 53. Furthermore, this court held that intent to harm can be inferred only if an injury is the "natural and probable consequence of an act." Id. Possibility is not equivalent to probability. Just because an action is possible does not make it the probable outcome, and that is certainly the case with the events surrounding Ms. Dunn and Weston.

Ms. Dunn did not intend to injure Weston. Because she never intended to harm Weston, Dunn did not check to see whether the derringer had bullets when she retrieved her late husband's gun. Dunn further stated that she hoped simply revealing the derringer would be enough to stop

Weston from charging at her. By firing the derringer from approximately fifty feet away, Dunn could not have intended to hit Weston because she believed that from such a distance, it would be impossible.

Furthermore, hitting an individual approximately fifty feet away is not the natural or probable result of an inaccurate, short-range derringer being fired by an elderly widow with no previous firearm training. Dunn did not aim at Weston, nor did she believe the shot could reach her. Dunn's late husband had previously told her that the derringer could not reach anything further than ten or fifteen feet away. Additionally, Dunn had no formal training with the derringer; the two previous times she fired the derringer, she was unable to hit a target. That Ms. Dunn's shot actually hit Weston is quite anomalous considering her lack of experience and the inaccuracy of the derringer at such a distance, especially since she did not aim at Weston. The expert-marksman detective found it improbable and "surprising" that the bullet impacted Weston fifty feet away and seriously doubted his own ability to hit a target at such a distance using Ms. Dunn's derringer. A jury can reasonably reach the same conclusion—that it was highly improbable for the events to unfold in the manner in which they did. Thus, Ms. Dunn did not possess the intent necessary to trigger the exclusion clause nor were Weston's injuries the "natural or probable consequence" of Dunn's Actions. See id. at 52.

In Evans, this Court found a wife, who burned cash in a safety-deposit box, liable because she clearly intended to cause injury to whomever owned the contents of the box. Id. at 54. In the present case, Ms. Dunn did not intend to cause injury whatsoever. Dunn's insurance policy states that it does not cover damages "intended or expected *by the insured*," and it is evident that Ms. Dunn did not intend to injure Weston, nor did she expect a bullet from an inaccurate derringer to travel fifty feet and hit Weston. Based on this court's probability standard and the language of the

insurance agreement, it is clear that the incident falls outside of the exclusionary provision, and Ms. Dunn is entitled to have a jury hear her case and decide on the facts.

B. Self-defense must be an exception to an intent/expectation exclusionary clause because a self-defense action is not willful conduct and would cause no undue burden on Specialty Insurance Associates, Inc. (SIA).

Liability insurance would be pointless if certain defenses were precluded from indemnification. Id. at 53. Insurance is meant to protect individuals from unintended situations and prohibiting insurance coverage for self-defense actions would punish individuals who faced no alternative but to defend themselves. Self-defense exceptions would not encourage individuals to engage in dangerous conduct because people do not seek out altercations requiring them to act in self-defense.

Although this Court yet to address the issue of whether an insured acting in self-defense possess the intent necessary to trigger an exclusionary clause, a majority of courts hold that the insured does not possess the necessary intent because a self-defense action is unwilful and, therefore, unintentional. These decisions closely align with this Court's rationale in Evans. For example, in Transamerica Insurance Group v. Meere, 694 P.2d 181, 190 (Ariz. 1984), the court ruled that an insurance company must indemnify a man acting in self-defense after a prison employee started a fight against him. The man's insurance company sought to deny indemnification because it claimed self-defense actions fell under an exclusionary clause, denying coverage for injuries "expected or intended by the insured." Id. at 184. The court held that such exclusionary clauses only forbid indemnification for willful wrongdoings and concluded that a person acting in self-defense does not possess wrongful intent. Id. at 187, 189. Because a person acting in self-defense is "attempting to avoid a 'calamity' which has befallen on him," the court in Meere held that preventing self-defense actions from coverage does not serve the purpose behind

an insurance exclusionary clause (to discourage insured persons from engaging in dangerous conduct). Id. at 186.

Likewise in Preferred Mutual Insurance Co. v. Thompson, 491 N.E.2d 688, 690 (Ohio 1986), the court held that an insurance company must indemnify an insured when the insured shot a neighbor after the neighbor threw rocks and grabbed hold of him. The court held that a person acting in self-defense "does so only as a reaction to his attacker" and any injuries arising out of the defense "are not the result of the insureds misconduct." Id. at 691. Additionally, the court in Thompson held, "[t]he risk that an insurance company bears in providing an intentional tort defense for an insured who claims to have acted in self-defense is calculable." Id.

The minority of jurisdictions that do not recognize self-defense as an exception do not embody the same policy concerns as this Court and impose a strict, inconsistent interpretation of an ambiguous clause. For example, in Home Insurance Co. v. Neilsen, 332 N.E.2d 240, 243–44 (Ind. Ct. App. 1975), the Court held that self-defense actions were not covered by an insured's policy because the exclusionary clause unambiguously stated that intentional actions were excluded, and a self-defense action is intentional. This Court in Evans has already rejected the notion that such clauses are unambiguous and instead established a precedent that evaluates the situation surrounding the act—requiring the insured to have intended the injury—and acknowledged that insurance would be pointless if some intentional acts were precluded. 439 Ben. at 53.

Furthermore, in Vermont Mutual Insurance Co. v. Walukiewicz, 966 A.2d 672, 679 (Conn. 2009), the court held that self-defense actions are "by their very nature, instinctive or reactive, and, accordingly, unplanned and unintentional." Another court in Farmers & Mechanics Mutual Insurance Co. of W.V. v. Cook, 557 S.E.2d 801, 809–10 (W. Va. 2001), held that the purpose of

a self-defense action is to prevent injury and not for the purpose of intending injury to another. As such "an injury resulting from an act committed in self-defense is not, as a matter of law, an expected or intended act." Id. at 810. In keeping with its holding in Evans, this Court must adopt the rationale of the above courts because self-defense acts are not willfully intended.

In the present case, Ms. Dunn never intended to fire a shot in Weston's direction. Instead, she faced an armed threat charging towards her and had no choice but to take appropriate measures to protect herself. The above courts that acknowledge a self-defense exception share this Court's concern in Evans regarding the necessity for insurance to cover unintended injuries. Insurance companies are able to calculate the risk of house fires and lighting strikes; they are fully capable of calculating the risk of a person having to engage in self-defense. If this Court denied Dunn's indemnification under self-defense, this Court would punish victims subjected to an event outside of their control by allowing insurance companies to deny such claims, defeating the entire purpose of insurance. When Ms. Dunn faced an imminent threat, she had no choice but to protect herself, and this Court ought to recognize that her self-defense actions were not intentional, but compelled, and allow Dunn to be indemnified by SIA.

II. **Weston posed an immediate threat to Ms. Dunn by charging towards her following an intense verbal and physical altercation, and Dunn reasonably used self-defense to protect herself.**

Ms. Dunn reasonably and justifiably stopped an armed, hostile neighbor who was charging in her direction. This court has held that when an individual "reasonably believed that there was an imminent threat to safety, . . . [she] ha[s] a right to defend [herself]. Maichle v. Jonovic, 246 Ben. 622, 623 (1985). When determining whether an individual's belief was reasonable, this Court considers the following factors: "(1) relative size of the parties, (2) whether the aggressor has

general reputation for violence, (3) previous threats or attacks by the aggressor, and (4) whether the aggressor was armed or made some other statement or overt act showing intention to attack the defendant." Delaney v. Corley, 468 Ben. 125, 126 (2003). This Court held that it is the responsibility of the jury to determine whether an individual's self-defense actions are reasonable. Maichle, 246 Ben. at 624. Because there exists a discrepancy in age, size, and firearm experience between Weston and Ms. Dunn, because Weston made previous threats towards Ms. Dunn, and because Weston charged towards her while carrying a loaded weapon after a physical confrontation, a jury can find that Ms. Dunn reasonably acted in self-defense when Ms. Dunn fired a derringer in the general direction of Weston. Therefore, Ms. Dunn deserves to have her case heard by a jury, and the trial court improperly granted summary judgment.

A. By charging at Ms. Dunn with a loaded gun, Weston committed an overt act that led Ms. Dunn to reasonably believe there was an imminent threat to her safety.

A person is privileged to act in self-defense when she is responding to imminent physical harm and aggressive behavior. Bellanger v. Landry, 581 Ben. 943, 945 (2013). In Bellanger, this Court found that a bar patron used reasonable self-defense when the patron hit a drunk after the drunk provoked the patron by threatening physical harm and shoving him. Id. at 944-45. This Court stated that the drunk outweighing the patron by ninety pounds factored into reasonableness of the plaintiff's response. Id. at 945. Additionally, this Court found a junior highschooler was acting in self-defense when he shot an upperclassman who was standing at the junior highschooler's home doorway, threatening to beat the junior highschooler and later charging towards him. Slayton v. McDonald, 506 Ben. 914, 916 (2007). This Court reasoned that the upperclassman engaged in the altercation by simply refusing to leave the junior highschooler's home. Id. Moreover, this Court focused on the difference in size between the teenagers, and the upperclassman's previous physical

altercations, as evidence that the junior highschooler both reasonably apprehended, and responded to, the physical threat. Id. at 915.

Ms. Dunn reasonably believed there was an imminent threat to her safety when Weston charged at her with a loaded 9mm handgun. Similar to the junior highschooler in Slayton and the bar patron in Bellanger, Ms. Dunn was physically unable to fend off Weston. At the time of the accident, Ms. Dunn was a sixty-nine-year-old widow while Weston was a strong, thirty-three-year-old active gun enthusiast and competitive shooter. Immediately prior to the accident, Weston chased Dunn's dog to Dunn's front yard and yelled at Ms. Dunn, stating that she had reached the end of the line and that she "wasn't going to put up with [Ms. Dunn or her] blankety-blank mutt." Similar to the bar patron in Bellanger, Ms. Dunn also experienced a physical assault prior to acting in self-defense. After Dunn came down and spoke with Weston, Weston harshly smacked Ms. Dunn's hand. As Weston walked away, she continued speaking profanities towards Ms. Dunn; at which point Ms. Dunn, who tired of this constant ordeal, told Weston that Weston would not get away with ever hurting her dog. Weston then charged towards Ms. Dunn while possessing a 9mm handgun which could have easily been used to shoot Ms. Dunn from a substantial distance—a threat greater than what occurred in Slayton, where an unarmed high schooler rushed towards a junior highschooler. Ms. Dunn, fearful of Weston's recent physical assault in addition to the fact that Weston is much larger and experienced with handguns, first attempted to simply reveal the derringer while under a streetlamp. Weston, however, continued charging, and Ms. Dunn felt no choice but to fire her derringer in Weston's direction. Firing the derringer in Weston's direction was the only way Ms. Dunn could prevent an imminent physical threat and was a reasonable response given the physical and experiential disparity between them.

B. Weston's prior threats further prove that Ms. Dunn reasonably apprehended an imminent threat when Weston charged at her possessing a 9mm handgun.

Previous threats or attacks by an aggressor contribute to a victim's reasonable belief in imminent threat. Delaney, 468 Ben. at 126. In Maichle, a nine-year-old previously scuffled with, and threatened, an eight-year-old; the nine-year-old then bragged to other children about how he would beat the eight-year-old outside their bus stop. 246 Ben. at 623. After the two were dropped off, there were contradictory factual disputes as to whether the nine-year-old committed an overt act when the eight-year-old acted in self-defense. Id. at 622-23. This Court held that "[a]n overt action of an ambiguous nature may give rise to a reasonable belief of imminent bodily harm when coupled with previous threats of physical harm and dangerous propensities exhibited by the victim." Id. at 624. The court affirmed a jury verdict which found for the eight-year-old acting in self-defense based on prior threats and harassment without having to prove definitively that an overt act actually occurred. Id. at 624. In cases where this Court ruled that an individual did not act in self-defense, despite previous threats, the persons claiming self-defense were themselves the aggressors—such as in Tygart v. Kohler, 582 Ben. 147, 148-49 (2013), where this Court denied a paramour's self-defense claim when the paramour assaulted his lover's ex-husband numerous times with a bat out of concern that the ex-husband would beat him or his lover based on numerous threats over several months. This Court considered the previous threats as a method of establishing reasonableness; however, this Court reached its conclusion because the ex-husband displayed no physical threat to any other party at the time of the incident. Id. Moreover, in Ashford v. Betleyoun, 617 Ben. 93, 94-95 (2016), this Court held that a security guard justifiably used self-defense when he shot a robber who appeared to be carrying a gun, when in fact it was an air pistol, because the security guard reasonably "believed" that he was in danger of serious bodily harm even if ultimately mistaken.

Weston's previous threats and aggressive actions towards Ms. Dunn provided further evidence that Dunn reasonably concluded Weston's physical actions posed an imminent threat. Weston threatened Ms. Dunn on multiple occasions using profane language such as, "you'd better get out and stay out or I'll blankety-blank make sure you do." Additionally, Weston had shot targets with an image of a dog akin to Dunn's. Similar to the eight-year-old in Maichle, who had previous confrontations and threats from his aggressor, the prior encounters in which Weston threatened Ms. Dunn in addition to Weston intimidatingly shooting at pictures of dogs, justified Dunn's reasonable perception of an imminent threat. Weston smacking Ms. Dunn's hand shortly before the accident further proves that Weston was willing to resort to physical means to end the dispute. Additionally, like the security guard in Ashford who reasonably believed he was in danger despite being mistaken, Ms. Dunn had enough reason to expect an imminent physical threat even if Weston claimed that she never intended on shooting the weapon. When Weston charged at Ms. Dunn with a loaded weapon, Ms. Dunn reasonably acted in self-defense. Any person in Ms. Dunn's position would anticipate Weston using the weapon based on her prior threats.

CONCLUSION

For the reasons set forth above, Defendant respectfully requests the Court to reverse the summary judgment granted by the superior court and remand this case for trial upon the merits.

Applicant Details

First Name	**Philip**
Last Name	**Fons**
Citizenship Status	**U. S. Citizen**
Email Address	**philip.fons@marquette.edu**
Address	**Address** Street **4373 S. 48th St.** City **Greenfield** State/Territory **Wisconsin** Zip **53220**
Contact Phone Number	**4142170666**

Applicant Education

BA/BS From	**Loyola University Chicago**
Date of BA/BS	**May 2013**
JD/LLB From	**Marquette University Law School** **http://law.marquette.edu**
Date of JD/LLB	**May 18, 2024**
Class Rank	**5%**
Law Review/Journal	**Yes**
Journal(s)	**Marquette Law Review**
Moot Court Experience	**No**

Bar Admission

Prior Judicial Experience

Judicial Internships/Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Professional Organization

Organizations **Alpha Sigma Nu**

Recommenders

Kearney, Joseph
joseph.kearney@marquette.edu
414-288-1955

Parsons, Ryan
ryan.parsons@kohler.com
920-226-0723

Fodor, Anna
anna.fodor@marquette.edu
414-288-5121

References

Dean Joseph Kearney, joseph.kearney@marquette.edu,
(414)-288-1955

This applicant has certified that all data entered in this profile and any application documents are true and correct.

PHILIP H. FONS
(414) 217-0666 | philip.fons@marquette.edu

April 15, 2023

The Honorable Michael B. Brennan
Milwaukee Federal Building and U.S. Courthouse
517 E. Wisconsin Ave.
Milwaukee, WI 53202

Dear Judge Brennan:

I am writing to apply for the 12-month clerkship in your chambers beginning August of 2024. My desire to serve as a judicial clerk was cemented after interning for Chief Judge Sykes this past semester. I am convinced there is no better way to learn and contribute to our profession as a new attorney than to serve as a judicial clerk. I am especially excited to apply for a position in your chambers because Milwaukee is my hometown and where I intend to practice as an attorney.

I am confident that my academic, legal, and professional experiences put me in a position to meaningfully contribute to your chambers and the work of the Seventh Circuit from day one. Academically, I have tailored my coursework to focus on legal subjects that I would expect to encounter as an appellate clerk (e.g., Advanced Civ Pro, Federal Courts, Legislation, etc.). In addition, I am an Academic Success Program (ASP) Leader for Civil Procedure. ASP is a program that Marquette Law has developed in which a select group of second- and third-year law students hold weekly review sessions for first-year students. I am also on the editorial board of the Marquette Law Review as an Articles Editor.

My legal experience is also relevant to a successful clerkship. As a rising second-year law student, I worked for Kohler Company's labor and employment team, where I developed a keen interest in employment discrimination and labor law. This summer, I will be a summer associate at Reinhart Boerner Van Deuren, where I intend to focus my time with the litigation practice group. In my third year of law school, I plan to intern at the United States Attorney's Office through Marquette's supervised fieldwork program. While I have no doubt that the learning curve for any new judicial clerk is steep, I believe these real-world experiences will aid in my understanding of substantive legal issues.

I would be remiss not to mention my former professional career as an active-duty Army Aviation Officer. While not directly relevant to the substantive work of a judicial clerk, the Army taught me that teamwork and leadership are essential to any organization's success. I will use my leadership and team-driven professional experience to support and elevate my fellow clerks and support staff.

Finally, I appreciate your invitation to opine on my understanding of the judiciary's role and judicial philosophy. Ultimately, the judiciary's role is to uphold the Constitution and to do so within the powers granted to it by the Constitution or by Congress. When engaged in statutory interpretation, I believe a judge's role is to interpret the text as a reasonable person would have at the time of enactment. Of course, one begins with the statute's text. But when the interpretation of the text alone contradicts its original public meaning, extrinsic sources should be consulted.

Stare decisis is an important principle. Its function of instilling predictability, cohesion, and faith within the legal system should not be understated. Its function within an intermediary appellate court is even more obvious. But for any court examining its own precedent, stare decisis should not be used to perpetuate bad law. If a precedential opinion is rooted in an incorrect interpretation of a statute, then it should be overruled. While I understand the theory of legislative acquiescence, attributing legislative

inaction to the legislature's tacit approval of a faulty judicial ruling is likely wishful thinking. Furthermore, if a precedential opinion is rooted in an incorrect interpretation of the Constitution, it must be overruled. The process for amending the Constitution should not be supplanted by judicial activism.

My personal philosophy is to follow the law regardless of my internal opinions or feelings on the matter. Equitable principles used as a vehicle to upend enacted law should be exercised with extreme caution. It is for the electorate to decide what the law is through its legislators. A judge's personal feelings towards an enacted law—assuming the enacted law's constitutionality—should not enter the judge's legal analysis.

My resume, writing sample, and transcripts are submitted through OSCAR. Letters of recommendation from the following individuals will arrive through OSCAR: Joseph Kearney—Dean and Professor of Law; Ryan Parsons—Senior Director of Labor & Employment at Kohler Company; Anna Fodor—Assistant Dean of Students and Adjunct Associate Professor of Law.

Thank you for your consideration and please let me know if additional information is needed. I can be reached at (414) 217-0666 or philip.fons@marquette.edu.

Sincerely,

Philip H Fons

Philip H. Fons
Candidate for Juris Doctor 2024

PHILIP H. FONS

(414) 217-0666 | philip.fons@marquette.edu

EDUCATION

Marquette University Law School, Milwaukee, WI
Juris Doctor Candidate, May 2024
Rank: 10 of 202 (Top 5%) **GPA**: 3.721/4.00 **Dean's List**: 3 of 3 semesters

Journal: MARQUETTE LAW REVIEW: Vol. 107 Editorial Board – Articles Editor; Vol. 106 – Member
Activities: Academic Success Program, Leader – Civil Procedure
Alpha Sigma Nu (National Jesuit Honor Society), Member
Student Ambassador

Loyola University Chicago, Chicago, IL
Bachelor of Business Administration in Accounting, ***cum laude***, May 2013
GPA: 3.529/4.000
Activity: Army Reserve Officer Training Corps Cadet

LEGAL EXPERIENCE

Court of Appeals for the Seventh Circuit, Chambers of Chief Judge Diane Sykes, Milwaukee, WI
Judicial Intern, Jan 2023 – Apr 2023
- Conduct legal research and write bench memorandums for pending cases.

Kohler Co., Kohler, WI
Legal Intern, Labor & Employment Team, May 2022 – Aug 2022
- Draft Position Statements in response to claims of EEO violations.
- Research and write internal memorandums on legal issues pertaining to arbitration proceedings.
- Research and write internal memorandums on legal issues related to labor and employment law.

OTHER PROFESSIONAL EXPERIENCE

U.S. Army, **Active Duty** (2013 – 2021)
Company Commander – C/1-11th Air Traffic Services Company, Fort Rucker, AL, Dec 2019 – Mar 2021
- Administered and adjudicated adverse disciplinary actions in accordance with the Uniform Code of Military Justice while receiving legal counsel from the Judge Advocate office.
- Oversaw the daily operation of Air Traffic Control/Services at Troy Municipal Airport and six helicopter training airfields at the United States Army Aviation Center of Excellence.
- Managed the staffing, training, and mission readiness of 86 soldiers and civilians.

Battalion Logistics Officer – 1-228th Aviation Regt, Soto Cano Air Base, Honduras, Sep 2018 – Sep 2019
- Supervised all logistical functions for an aviation organization with over 170 soldiers and 19 helicopters.
- Managed the execution and forecasting of the Battalion's $24.5 million budget.

Battalion Intelligence Officer – 2-501st Aviation Regt, Fort Bliss, TX, May 2017 – Mar 2018
- Advised the Battalion Cdr and staff on all matters concerning intelligence, security, and threat analysis.
- Developed reports from internal flight crews and external organizations during Hurricanes Harvey and Maria to provide the Battalion Cdr with assessment of real-world relief operations.

Platoon Leader – 2-501st Aviation Regt, Fort Bliss, TX, Jul 2015 – Apr 2017
- Managed the staffing, training, and mission readiness of 22 soldiers and 3 HH-60M Black Hawk helicopters.
- Executed medevac and search and rescue flights.

ADDITIONAL INFORMATION

Military Education: Aviation Captain's Career Course (2018), Initial Entry Rotary Wing Course – UH-60A/M Black Hawk Helicopter (2015), Basic Officer Leadership Course (2014)

Awards & Decorations: Meritorious Service Medal (2021, 2019), Army Commendation Medal (2018), Army Achievement Medal (2017, 2016), Humanitarian Service Medal (2017), Army Aviator Badge (2015)

Licenses & Certificates: Wisconsin Real Estate Salesperson, License (2021)
FAA Commercial Pilot Certificate, Rotary Wing (2015)

OFFICIAL INTRA-UNIVERSITY LAW SCHOOL RECORD

Name: **Philip Fons**
Student ID: **005429998**

Institution Info: Marquette University
Print Date: 04/13/2023

Other Institutions Attended:
Loyola University of Chicago

Beginning of Law Record

2021 Fall

Program: Law
Primary Major: Law

Course		Description	Attempted	Earned	Grade	Points
LAW	7002	Contracts	4.000	4.000	A-	14.680
LAW	7003	Criminal Law	3.000	3.000	A-	11.010
LAW	7004	Lgl Analysis, Writ & Resrch 1	3.000	3.000	A-	11.010
LAW	7007	Torts	4.000	4.000	A	16.000

			Attempted	Earned	GPA Units	Points
Term GPA:	3.764	Term Totals	14.000	14.000	14.000	52.700
Cum GPA:	3.764	Cum Totals	14.000	14.000	14.000	52.700

2022 Sprg

Program: Law
Primary Major: Law

Course		Description	Attempted	Earned	Grade	Points
LAW	7000	Civil Procedure	4.000	4.000	A	16.000
LAW	7001	Constitutional Law	4.000	4.000	A	16.000
LAW	7005	Lgl Analysis, Writ & Resrch 2	3.000	3.000	A	12.000
LAW	7006	Property	4.000	4.000	B+	13.320

			Attempted	Earned	GPA Units	Points
Term GPA:	3.821	Term Totals	15.000	15.000	15.000	57.320
Cum GPA:	3.794	Cum Totals	29.000	29.000	29.000	110.020

2022 Fall

Program: Law
Primary Major: Law

Course		Description	Attempted	Earned	Grade	Points
LAW	7191	Evidence	3.000	3.000	B	9.000
LAW	7260	Labor Law	3.000	3.000	A-	11.010
LAW	7269	Legislation	3.000	3.000	B+	9.990
LAW	7340	Workers' Compensation	3.000	3.000	A	12.000
LAW	7581	Seminar: The Supreme Court	2.000	2.000	A	8.000
LAW	7960	Law Journals: Marquette Law Review	1.000	1.000	S	0.000

			Attempted	Earned	GPA Units	Points
Term GPA:	3.571	Term Totals	15.000	15.000	14.000	50.000
Cum GPA:	3.721	Cum Totals	44.000	44.000	43.000	160.020

OFFICIAL INTRA-UNIVERSITY LAW SCHOOL RECORD

Name: **Philip Fons**
Student ID: **005429998**

2023 Sprg

Program: Law
Primary Major: Law

Course		Description	Attempted	Earned	Grade	Points
LAW	7102	Advanced Civil Procedure	3.000	0.000		0.000
LAW	7185	Employment Law	3.000	0.000		0.000
LAW	7332	Trusts And Estates	3.000	0.000		0.000
LAW	7925	Academic Success Program	2.000	0.000		0.000
LAW	7960	Law Journals: Marquette Law Review	1.000	0.000		0.000
LAW	7980	Judicial Intern - Appellate: US Court of Appeals - Sykes	2.000	0.000		0.000

			Attempted	Earned	GPA Units	Points
Term GPA:	0.000	Term Totals	14.000	0.000	0.000	0.000
Cum GPA:	3.721	Cum Totals	58.000	44.000	43.000	160.020

2023 Fall

Program: Law
Primary Major: Law

Course		Description	Attempted	Earned	Grade	Points
LAW	7140	Criminal Process	3.000	0.000		0.000
LAW	7203	Federal Courts	3.000	0.000		0.000
LAW	7239	Judging & the Judicial Process	3.000	0.000		0.000
LAW	7266	The Law Governing Lawyers	3.000	0.000		0.000
LAW	7950	Advanced Legal Research:	1.000	0.000		0.000
LAW	7960	Law Journals: Marquette Law Review	2.000	0.000		0.000

			Attempted	Earned	GPA Units	Points
Term GPA:	0.000	Term Totals	15.000	0.000	0.000	0.000
Cum GPA:	3.721	Cum Totals	73.000	44.000	43.000	160.020

Law Career Totals

Cum GPA:	3.721	Cum Totals	73.000	44.000	43.000	160.020

End of OFFICIAL INTRA-UNIVERSITY LAW SCHOOL RECORD

MARQUETTE UNIVERSITY LAW SCHOOL
CURRICULUM COMMITTEE

GRADING SCALE AND GRADING GUIDELINES

I. Grading Scale

GRADE	INTERPRETATION	GRADE POINTS PER SEMESTER HOUR
A+	Distinguished Performance	4.00[1]
A	Outstanding	4.00
A-	Excellent	3.67
B+	Very Good	3.33
B	Good	3.00
B-	Competent	2.67
C+	Adequate	2.33
C	Minimally Competent	2.00
C-	Less Than Satisfactory	1.67
D	Poor	1.00
F	Failing	0.00

The grades of A+, A, A- and B+ are deemed to be "honors grades." The award of "honors grades" is subject to the grade normalization rules as they apply to such grades.

[1] The grade of A+ is used to identify a student who has delivered distinguished performance in a course. Only one such grade may be awarded in the course though there is no obligation to award such a grade in the absence of distinguished performance.

II. Grading Guidelines – Classes with an enrollment of 24 or more students (excluding workshops and seminars)

A. These grading guidelines apply to all IL courses and to all other courses with an enrollment of 24 students or more. Enrollment is determined as of the last date for withdrawing from a course with a grade of "W."

B. The targeted mean grade point average in 1L required courses other than Legal Analysis, Writing and Research 1 & 2 is 3.00. The actual mean in these courses shall be between 2.85 and 3.05.

C. The targeted mean grade point average in Legal Analysis, Writing and Research 1 & 2 and, except as provided for in part II-B above, in all other courses to which the guidelines apply, is 3.00. The actual mean in these courses shall be between 2.90 and 3.10.

D. Honors grades (A+, A, A- and B+) may be awarded to not more than 35 % of students enrolled in courses governed by the grading guidelines.

E. When a partial set of grades is submitted because, for example, some members of the class are graduating and the grades for those students might be submitted before the grades of non-graduating students, the professor shall submit final grades for at least 24 students, including all graduating students. The partial set of grades must comply with the grading guidelines and the full set of grades must comply with the guidelines as well.

F. Any faculty member who teaches more than one section of the same course during the same semester may aggregate the grades of all students in all such sections for purposes of applying the grading guidelines.

G. Faculty who teach different sections of the same course in the same semester are encouraged to share their students' grades with one another before submitting final grades to the registrar.

III. Grading Guidelines – Classes with an enrollment of 23 or fewer students (or for workshops or seminars with 24 or more students)

A. These grading guidelines apply to all courses with an enrollment of 23 or fewer students, and all seminars and workshops, regardless of enrollment. Enrollment is determined as of the last date for withdrawing from a course with a grade of "W."

B. The median for all courses with an enrollment of 23 or fewer, and all seminars and workshops, will be no higher than a B+.

Adopted 5/5/2009; Revised 5/1/2012

Name: **Philip Fons**
Student ID: **00001256539**
Birthdate :

Print Date: 1/29/22

Degrees Awarded

Degree: Bachelor of Business Administration
Conferral Date: 05/18/2013
Degree Honors: Cum Laude
Plan: Accounting

Test Credits

Test Credits Applied Toward Undergraduate Arts & Sciences

	Earned
Transfer Totals:	0.000

Beginning of Undergraduate Record

Fall 2009

Program: Undergraduate Arts & Sciences

Course		Description	Attempted	Earned	Grade	Points
HIST	112	United States Since 1865	3.000	3.000	A-	11.010
HONR	D101	Dev West Thght I Disc Honors	3.000	3.000	C+	6.990
HONR	101	Dev West Thght I Lec Honors	3.000	3.000	C+	6.990
MLSC	101	Military Science I	1.000	1.000	A	4.000
PHIL	174	Logic	3.000	3.000	A-	11.010
POLS	103	Polish III	3.000	3.000	A-	11.010
UNIV	101	First Year Seminar	0.000	0.000	P	0.000
Term GPA	3.188	Term Totals	16.000	16.000		51.010
Cum GPA	3.188	Cum Totals	16.000	16.000		51.010

Spring 2010

Program: Undergraduate Arts & Sciences

Course		Description	Attempted	Earned	Grade	Points
ANTH	102	Intro Cultural Anth	3.000	3.000	B-	8.010
ECON	201	Econ Principles I (Micro)	3.000	3.000	B	9.000
ECON	202	Econ Principles II(Macro)	3.000	3.000	B-	8.010
MATH	131	Elements Calculus I	3.000	3.000	C	6.000
MLSC	102	Leadership II	1.000	1.000	A	4.000
UCWR	110	College Writing Seminar	3.000	3.000	A	12.000
Term GPA	2.939	Term Totals	16.000	16.000		47.020
Cum GPA	3.063	Cum Totals	32.000	32.000		98.030

Name: **Philip Fons**
Student ID: **00001256539**
Birthdate :

Print Date: 1/29/22

Fall 2010

Program: Undergraduate Arts & Sciences

Course		Description	Attempted	Earned	Grade	Points
ACCT	201	Introductory Accounting I	3.000	3.000	A	12.000
ISOM	241	Business Statistics	3.000	3.000	A	12.000
MARK	201	Fundamentals of Marketing	3.000	3.000	B	9.000
MGMT	201	Managing People & Organization	3.000	3.000	A-	11.010
MLSC	201	Military Science II	2.000	2.000	A	8.000
MLSC	251	Physical Readiness II	1.000	1.000	A	4.000
PSYC	101	General Psychology	3.000	3.000	B	9.000
Term GPA		3.612 Term Totals	18.000	18.000		65.010
Cum GPA		3.261 Cum Totals	50.000	50.000		163.040

Spring 2011

Program: Undergraduate Arts & Sciences

Program: Undergraduate Business

Course		Description	Attempted	Earned	Grade	Points
ACCT	202	Intro Accounting II	3.000	3.000	A	12.000
ECON	303	Microeconomics	3.000	3.000	A-	11.010
HIST	102	Evol Wst Idea/Inst Sn 17C	3.000	3.000	A-	11.010
ISOM	247	Business Information Systems	3.000	3.000	A-	11.010
MLSC	202	Leadership IV	2.000	2.000	A	8.000
MLSC	252	Physical Training IV	1.000	1.000	A	4.000
THEO	112	New Testament	3.000	3.000	A-	11.010
Term GPA		3.780 Term Totals	18.000	18.000		68.040
Cum GPA		3.398 Cum Totals	68.000	68.000		231.080

Summer 2011

Program: Undergraduate Business

Course		Description	Attempted	Earned	Grade	Points
FINC	332	Business Finance	3.000	3.000	B	9.000
LREB	315	Law/Rgltry Environ Bus I	3.000	3.000	A	12.000
Term GPA		3.500 Term Totals	6.000	6.000		21.000
Cum GPA		3.406 Cum Totals	74.000	74.000		252.080